DOCUMENT RESUME

ED 341 593 SO 021 426

AUTHOR Butts, R. Freeman
TITLE The Morality of Democratic Citizenship: Goals for Civic Education in the Republic's Third Century.
INSTITUTION Center for Civic Education, Calabasas, CA.
REPORT NO ISBN-0-89818-132-1
PUB DATE 88
NOTE 246p.
AVAILABLE FROM Center for Civic Education, 5146 Douglas Fir Road, Calabasas, CA 91302.
PUB TYPE Books (010) -- Guides - Non-Classroom Use (055)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS *Citizenship Education; Civics; Constitutional History; Constitutional Law; *Democratic Values; Educational Objectives; Elementary Secondary Education; *Law Related Education; *Moral Values; *Social Studies; Student Educational Objectives; Teaching Methods; *United States History

ABSTRACT

In recent years a number of political and educational leaders and groups have urged the nation's public schools to place a greater emphasis on teaching civic values and on educating students to become citizens. This book puts forth the civic values and ideas that schools should be teaching. The volume is not a handbook or curriculum guide, but is designed to broaden the perspective of curriculum specialists, textbook authors, teachers, and educational policymakers. In the first three chapters of this four-chapter book, the study of and learning about history, the study and learning about constitutional principles, and the study and learning about conceptions of citizenship are examined. The final chapter offers a set of 12 ideas and civic values that should suffuse teaching and learning in the schools. These 12 values are justice, equality, authority, participation, truth, patriotism, freedom, diversity, privacy, due process, property, and human rights. (DB)

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the morality of democratic citizenship:

Goals for Civic Education in the Republic's Third Century

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by R. Freeman Butts

Center for Civic Education 1988

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Goals for Civic Education in the Republic's Third Century

by

R. Freeman Butts

Center for Civic Education
Calabasas, California
1988

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Published by
Center for Civic Education
5146 Douglas Fir Road
Calabasas, CA 91302

ISBN 0-89818-132-1

Contents

Preface vii

Acknowledgments xi

Chapter 1 One Clear Mandate: Teach History 1

A. Teach History--But What History? 2

B. What Role for History in the Social Studies? 13

C. Citizenship as Paramount Theme 27

Chapter 2 Another Clear Mandate: Teach the Constitution 45

A. Learning from the Bicentennial 45

B. How We have Taught the Constitution in the Past 50

C. Whose Constitution Shall We Teach? 64

D. A Case Study in "Original Intent:" The Establishment Clause 77

E. Informing Public Debate 87

Chapter 3 Underlying All Else: A Defensible Conception of Citizenship 101

A. The High Ideal of Citizenship in a Republic 104

B. The Modern Idea of Democratic Citizenship 115

Chapter 4 What the Schools Should Teach: The Twelve Tables of Civism 133

UNUM		PLURIBUS	
Justice	135	Freedom	140
Equality	144	Diversity	150
Authority	154	Privacy	157
Participation	165	Due Process	160
Truth	171	Property	163
Patriotism	174	Human Rights	179

Postscript 185

Notes 189

Index of Names 221

Figure I The Twelve Tables of Civism 136

Preface

During the summer of 1987, in commemoration of the Bicentennial of the Constitutional Convention, millions of Americans were being urged to study the Constitution as a "history and civics lesson for all of us." Numerous celebrations, conferences, and symposia were being held throughout the land, spurred on by the Commission on the Bicentennial of the United States Constitution, headed by former Chief Justice Warren E. Burger, by Project '87 (co-sponsored by the American Political Science Association and the American Historical Association), by the American Bar Association, by the Smithsonian Institution, and by many other academic institutions and professional associations. Scores of projects were being conducted by local, state, and voluntary organizations. Notable initiatives of this sort were encouraged by the Bicentennial Leadership Project jointly conducted by the Council for the Advancement of Citizenship and the Center for Civic Education.

In addition to the hundreds of meetings being held, there was an outpouring of new publications by scholars and commentaries by columnists and editorialists detailing the ideas and events leading up to the assemblage of the Convention in May 1787 and the signing of the Constitution in September 1787. Television programs, notably those on PBS by Bill Moyers and Peter Jennings, further illuminated the public's awareness of "the history lesson" about the origin and meaning of the Constitution.

But, meanwhile, during those same months in the summer of 1987, another series of "civics lessons" was being taught in the daily press and on TV, riveting the attention of millions more of Americans on the Congressional hearings dealing with the Iran/Contra affair and the nomination of Robert H. Bork to be a new associate justice of the Supreme Court. Not since the Watergate summer had consitutional questions come so alive. Few civics lessons as portrayed in school textbooks sounded like the issues dealing with the separation of powers, checks and balances, federalism, judicial review, or the Bill of Rights being aired and debated among the three branches of government in Washington.

Few citizens moderately alive to the news of the day could escape noticing that something important was happening. But what could the citizen make of it? What *were* the civics lessons to be learned? Did the history portrayed in the Bicentennial lessons, after all, have any real relevance to present-day questions of presidential power in foreign affairs, or Congressional oversight, or Supreme Court activism? Could the Framers' original intentions have anything to do with privacy and abortion, equality, civil rights, affirmative action, or desegregation and prayer in the public schools? Did the scholarly tomes help the citizen more or less than did the

hearings themselves or the ideological columns or talk shows of the commentators of various political hues? And what should the schools have been doing, if anything, about all this by way of preparing citizens to make judgments about their government-in-action, their present political leaders, and their candidates as would-be policy-makers in the legislative, executive, and judicial branches of government?

The bulk of this book was obviously written before the disclosures of the Iran/Contra affair that began in November 1986 or the nomination of Judge Bork to the Supreme Court in July 1987. This book does not deal specifically with the Iran affair nor the Congressional confirmation hearings regarding appointments to the Supreme Court. It is not intended to be an adversarial book on these particular events. It is intended to look both to the past and to the future with regard to what civic values and ideas the schools should be teaching. It refers to the events of the summer of 1987 simply as illustrations of the recurring close encounters between the Presidency, the Congress, and the Supreme Court over issues that could affect all citizens and shape public policies for decades in the future. They are recent examples of public policy debates which require the best informed public judgments that the American citizenry can mobilize regarding the basic civic values underlying our constitutional order.

How are citizens eventually to judge the merits of the policies and the practices arising from these events? Surely not by any simple or easy formulas or ideological refuge, but in the long run only by careful judgments, informed by a seasoned historical perspective and a meaningful conception of the nature of citizenship and leadership in a democratic republic. And this process should begin early in the schools and continue throughout the educative process--a process one could hope would continue as long as citizenship itself does.

So, this book tries to marshall some historical perspective with which to look to the future of civic education in the schools. The first stage of the Bicentennial commemoration ended on September 17, 1987, marking the framing of the unamended Constitution. Next comes the period of debate over ratification of the Constitution, the actual beginning of the federal government, and the framing and adoption of the Bill of Rights. The stimulus of the occasion provided by the Bicentennial commemoration thus ends in December 1991.

But the task of reforming and reformulating a civic education for the third century of the Republic will have scarcely begun. That task requires the best and most sustained cooperative efforts of the scholarly community, the educational profession, and the public. To that task this book is dedicated. It is not a handbook or curriculum guide. It treats of four ingredients of civic education that I hope will inform the outlooks of those

who do the curriculum-making, the textbook-writing, and the teaching in the schools as well as those in educational policy-making positions.

These have to do with study and learning about history, study and learning about constitutional principles, and study and learning about the conception of citizenship upon which various approaches to civic education may rest. And, finally, it offers a set of twelve ideas and civic values that I believe should suffuse teaching and learning in the schools, as students, teachers, and concerned citizens alike seek to understand and to practice what American citizenship is all about. They are not new nor original, but I believe that they embrace the essence of education for citizenship: *summa educationis pro civitate*.

It should be noted here that this book was originally planned as part of a more comprehensive study of the civic mission of public education in American society, a study I have been working on for the past few years as a visiting professor at San Jose State University and a visiting scholar at the School of Education and Hoover Institution of Stanford University. A single book was contemplated, but the coincidence of the beginning of the five-year commemoration of the Bicentennial of the Constitution and Bill of Rights, along with the memorable constitutional debates of 1987, made it seem desirable and timely to speed up the publication of the four chapters constituting this book.

The other part of the original plan deals with the long-range dilemmas facing education for citizenship in a pluralist democracy and the special urgencies that arise when competing claims call for educational reforms that lead in different directions. That part of the study is being published by the Hoover Institution Press under the title *The Civic Mission in Educational Reform; Perspectives for the Public and the Profession*. As the title suggests, it focusses on the educational reform movement of the past few years as viewed in the broader spectrum of issues affecting the role of public education in preparing youth for American citizenship. With a few notable exceptions, the historic civic mission of education has been at best muted or at worst wholly ignored in the many reports and reform actions that have blossomed since the report of the National Commission on Excellence in Education in 1983.

The Civic Mission deals not only with the excellence movement's call for improved academic achievement and cultural literacy, but also with such other clamorous claims on educational reform as: technological literacy to sharpen America's competitive economic edge in the world community; a return to the traditional moral and religious values of Western civilization; a reemphasis upon parental rights and family choice; and a return to local and private control of schooling. Part I views these claims in the light of the changing roles of families, schools, and communities since the founding of the Republic; the tensions for schooling arising from the competing

who do the curriculum-making, the textbook-writing, and the teaching in the schools as well as those in educational policy-making positions.

These have to do with study and learning about history, study and learning about constitutional principles, and study and learning about the conception of citizenship upon which various approaches to civic education may rest. And, finally, it offers a set of twelve ideas and civic values that I believe should suffuse teaching and learning in the schools, as students, teachers, and concerned citizens alike seek to understand and to practice what American citizenship is all about. They are not new nor original, but I believe that they embrace the essence of education for citizenship: *summa educationis pro civitate*.

R. Freeman Butts
Carmel Valley, California
February 1988

Erratum

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goals of civic cohesion, pluralism, privatism, and modernization on the road to nationhood; and the diminishing civic purpose of education since the 1930s. Part II suggests the variety of attempts to revitalize the civic mission of education since the 1930s, not only in the schools, and especially in the social studies, but also in the liberal and professional education of all teachers and administrators.

Viewed as companion pieces, these two books complement each other in arguing that education at all levels should embrace a vastly improved ingredient of civic learning, if genuine reform is to be embedded in the institutions of American education. They call for formulating a viable conception of citizenship that will see the Republic safely into and possibly through its third century. They argue for explicit and continuing study of the basic concepts, principles, and values that bind us together in a distinctive political community and constitutional order. The common core of the curriculum throughout school and college years should be the morality of democratic citizenship.

R. Freeman Butts
Carmel Valley, California
February 1988

Acknowledgments

After one has written several books and scores of articles, there is no really new way to acknowledge the debts owed to others. The best I can do here is to single out a few key persons who enticed me to leave an earned retirement on the East coast for California and then kept my nose to the civic grindstone for more than a decade.

Hobert Burns and Francis Villemain were the culprits who stood on its head Horace Greeley's advice about when to go West. They got me to come to San Jose State University on the pretext that I would stay for a year as Visiting Professor, knowing full well that my wife and I would pull up stakes after 40 years in and around New York City.

Soon after we were settled in Palo Alto, Paul Hanna held out the inducement to continue research as a Visiting Scholar at the Hoover Institution of Stanford University and to find a haven for my files of papers in the Hoover Archives. He, and later his colleague, Gerald Dorfman, kept encouraging me to keep working away on the civic mission of American education. As a result, a volume is now being published by the Hoover Institution Press for their Education and Society Series, under the title *The Civic Mission in Educational Reform*. Meanwhile, Gene Schwilck, president of the Danforth Foundation, gave me the chance as a consultant to learn first hand about innovations in civic education, which Danforth had been pursuing.

For a still longer time and on a much broader front, David Mathews, president of the Kettering Foundation, honored me with the designation of Senior Fellow for several years, during which time I was privileged to help organize the Council for the Advancement of Citizenship and act as chairman of its annual Jennings Randolph Forum. As a member of the Kettering Associates Council, I still continue as a member of the CAC board of directors and honorary chair of the Randolph Forum.

Finally, the major debt for this particular book is owed to Charles N. Quigley, executive director of the Center for Civic Education. For more than a decade he has repeatedly invited me not only to be a member of the board of directors of the Center but to engage actively in its conferences, its writings, and its counsels. I am the first to make it clear that I have learned more from these valued connections than I have been able to teach. That will be immediately clear to anyone who reads further in this book and knows the materials produced by the Law in a Free Society project.

But the usual disclaimer is appropriate. I provide the Center not only with plausible deniability but absolute deniability that any of my views officially

represent those of the Center. In fact, many of the views of this book have already been published in a number of sources, most, if not all, of which I hope I have recognized herewith:

Portions of Chapter 1 appear in an anthology edited by Bernard R. Gifford, *History in the Schools: What Shall We Teach?* (New York: Macmillan, 1988). Portions of Chapter 2 are adapted from my historical chapter in a volume edited by Howard D. Mehlinger, *Teaching about the Constitution in American Secondary Schools* (Washington, D.C.: Project 87, 1981) and in my own, *Religion, Education, and the First Amendment* (Washington, D.C.: People for the American Way, 1985). Chapters 3 and 4 are adapted from my *The Revival of Civic Learning* (Bloomington, Ind.: Phi Delta Kappa Educational Foundation, 1980). A shorter version of Chapter 4 appeared in a special issue of the *American Journal of Education*, February 1988, an article entitled "The Moral Imperative for American Schools: "Inflame the Civic Temper.'" Portions of my discussion in Chapter 4 of Morris Janowitz, *The Reconstruction of Patriotism*, first appeared in *Educational Studies*, Summer 1986.

In each case the original writing was done at the invitation of the editor or publisher, to whom permission to reprint here is gratefully acknowledged.

The names and numbers of all the team players who faithfully turned the scribbles of this unreconstructed pen-pusher into readable type cannot be listed in this scorecard. But the super-stars in the hectic final stages were clearly two members of the staff of the Center for Civic Education, Roslyn Danberg, production coordinator, and Kerin Martin, administrative coordinator. They made the game well worth the candle.

Chapter 1

One Clear Mandate: Teach History

By the mid-1980s the educational reform movement was rolling along with the aid of the many commission reports and the political clout of state governors and legislatures, financial support of major foundations, and the acquiescence, if not complete enthusiasm, of the major professional education organizations. Still, the main attention continued to be structural arrangements to attract, pay, and hold high quality teachers. These were probably the key matters, but the question of curriculum reform and what to teach as well as what it was most worth to learn in the elementary school had scarcely begun to go beyond literacy and numeracy (long known as reading, writing, and arithmetic).

At the high school level, several of the states were following Ernest Boyer's lead in arguing for a common required curriculum for all students, whether college-bound or not. The California State Department of Education agreed and put it this way in its *Model Curriculum Standards* of 1985:

> A strong consensus is building within the education profession in support of a core curriculum. First, if we are to stay competitive internationally, our economy requires a more sophisticated education for all students. Second, the continuance of our democratic society demands that we do a better job of teaching civic values by connecting more of our students to our history, our culture, and those ideals which hold us together as a people. Finally, we surely can be more successful in providing a broad, liberal education for more of our youth. In too many instances we have betrayed the democratic dream by operating our schools as if only the more advanced student could understand and appreciate our culture and our political and ethical ideals.[1]

In several states this "emerging consensus" at the secondary level settled on the basic academic subjects: English, science, mathematics and history. Very often civics or government was added; sometimes the arts and foreign language. California's pace-setting law of 1983 set state-wide requirements for high school graduation at:

3 years of English

3 years of History/Social Science

2 years of Mathematics

2 years of Science

1 year of either Foreign Language or Visual and Performing Arts

2 years of Physical Education

The legislation also required the State Superintendent of Public Instruction to draw up and the State Board of Education to adopt "Model Curriculum Standards" for the newly mandated graduation requirements. Local school districts were required to compare their own curriculum with the model standards at least once every three years. The intention was to give guidelines, leadership, and models, but not to mandate the specifics of course content. Superintendent Bill Honig soon set in motion a wide range of efforts to respond to the legislation.

One of these was an invitational conference of the CLIO Project, cosponsored by the State Department of Education and the Graduate School of Education at the University of California, Berkeley, in August 1984 on the topic "History in the Public Schools: What Shall We Teach?" As one might imagine, the answers to that question by the several score of attendees were quite varied. They ranged from a stress on return to narrative story-telling and heroes rather than bland analysis, emphasis on chronology rather than "problems," history for its own sake, and greater emphasis on the forgotten actors in history, the minorities, ethnic groups, women, the underclass. My own paper, "History and Civic Education," focused on history as a major formative component in the making of democratic citizens and improving their public judgments, a purpose that harkened back to some of the founders of the Republic.[2]

More directly aimed at drawing up "Model Curriculum Standards", a series of advisory committees was appointed by Superintendent Honig for each of the curriculum subjects. The Committee for History-Social Science ultimately settled on topics to be included in a year of World History, Culture, and Geography; a year of United States History and Geography; a half-year of American Government and Civics; and a half-year of Economics. Whereas no member of the Committee, including myself, would agree with every aspect of the result, I was pleased that considerable emphasis was given in the "Recommendations" to the role of history and the social studies as generators of civic education. Recommendation #3 stated explicitly that the history-social science curriculum "should provide for the understanding of American civic values."

A. Teach History--But What History?

It is well enough that such affirmations in favor of civic education should be made in important educational documents in important states. It is much better than to fail to do so, as was the case with so many of the education-

al reform reports of the 1980s. But, even so, the professed generalizations need to be brought down to specific content and examples. I believe that the California *Model Curriculum Standards* pointed the way, but the test will eventually be how they are regarded by hundreds of local school districts and thousands of teachers, administrators, and boards of education. In the following pages I try to give some historical perspective on what role the teaching of history has played and might play in the "making of citizens."

In response to the query posed by the CLIO Conference--What history shall we teach?--we could give two kinds of answers about the topic of history and civic education. One deals with the specific role that history should play in the over-all educational effort to prepare the young for citizenship. The other has to do with the relative importance of the study of history in comparison with the other social studies as an instrument for civic education in the schools. Both topics are important today, but neither was in the forefront of thinking about education in the early days of the American republic. As Hazel Hertzberg points out, history as a widespread, separate, and distinct subject of instruction in schools and colleges is only about a hundred years old in the United States.[3] Nevertheless, it is worth reminding that the founders of the republic were virtually unanimous in their belief that the welfare of the republic rested upon an educated citizenry capable of achieving civic virtue, i.e., a willingness to put obligation for the public good above private interest.

Inasmuch as many founders viewed their revolution primarily in political rather than economic or social terms, they talked about education as a bulwark for liberty, equality, popular consent, and devotion to the public good, goals that took precedence over the uses of knowledge for individual self-fulfillment or preparation for a job. Over and over, many of the Revolutionary generation, both liberal and conservative in outlook, asserted their faith not only that the welfare of the Republic rested on an educated citizenry but also that republican schools--especially free, common, public schools--would be the best way to educate the citizenry in the cohesive civic values, knowledge, and obligations required of everyone in a democratic republican society.

The principal ingredients of a civic education, most agreed, were literacy and inculcation of patriotic and moral virtues. Only a few stressed studying history along with the principles of republican government itself. The founders and almost all their successors were long on exhortation of the value of civic education, but they left it to the textbook writers to distill the essence of those values for school children. And since most of the textbook writers turned out to be of a conservative persuasion (more likely Federalist in outlook than Jeffersonian Republican), they almost universally agreed that political virtue must rest on moral and religious precepts.

Since most textbook writers were New Englanders, the early texts were infused with Protestant and, above all, Puritan outlooks.

Noah Webster's spellers, readers, and grammars exemplified this combination of faith in literacy (Americanized), didactic moral instruction, patriotism, and Puritan devotion to duty. Immediately following the Revolution, schoolbooks began to celebrate the values of national cohesion, love of country, and love of liberty. All things American began to be glorified. Even the staid *New England Primer*, which taught generations of Protestant children to learn the alphabet by Biblical injunctions, changed its couplet illustrating "W" from "Whales in the Sea, GOD's Voice Obey" to "Great Washington brave, His Country did save." Indeed, Washington became the object not only of extravagant praise but of virtually religious devotion. Ruth Elson quotes a 1797 textbook as saying of Washington: "The most unexceptionally, the most finished, the most Godlike human character that ever acted a part on the theatre of the world."[4]

In the first half century of the Republic the most influential carriers of civic education in the schools were the spellers and readers. Their paramount theme was to "attach the child's loyalty to the state and nation. The sentiment of patriotism, love of country, vies with the love of God as the cornerstone of virtue: `Patriotism...must be considered as the noblest of the social virtues.'"[5]

One of the few founders of the new Republic who put real faith in the study of history, rather than religion, as preparation for most persons in the duties of citizenship was Thomas Jefferson. In reviewing the reasons for his proposal of a Virginia law to establish public schools, Jefferson stated a classic view of the importance of history in the education of citizens. In his "Notes on the State of Virginia" Jefferson described the revisal of laws he proposed for Virginia in 1779 designed to replace the English monarchical common law with laws more consistent with republicanism. One of the most important of these was the proposal for a complete system of public education, consisting of elementary schools for all children, grammar schools for the bright and needy, and a state university as capstone for the training for public leadership. Jefferson's words are worth quoting at some length:

> The first stage of this education being the schools of the hundreds [local districts], wherein the great mass of the people will receive their instruction, the principal foundations of future order will be laid here. Instead, therefore, of putting the Bible and Testament into the hands of the children at an age when their judgments are not sufficiently matured for religious inquiries, their memories may here be stored with the most useful facts from Grecian, Roman, European, and American history. The first elements of

> morality too may be instilled into their minds; such as, when further developed as their judgments advance in strength, may teach them how to work out their own greatest happiness, by showing them that it does not depend on the condition of life in which chance has placed them, but is always the result of a good conscience, good health, occupation, and freedom in all just pursuits.[6]

Jefferson not only gave history a basic role along with reading, writing, and arithmetic, he stressed the role of history in forming the political judgment of citizens:

> But of all the views of this law none is more important, none more legitimate, than that of rendering the people the safe, as they are the ultimate, guardians of their own liberty. For this purpose the reading in the first stage, where *they* will receive their whole education, is proposed, as has been said, to be chiefly historical. *History*, by apprising them of the past, will enable them to judge of the future; it will avail them of the experience of other times and other nations; it will qualify them as judges of the actions and designs of men; it will enable them to know ambition under every disguise it may assume; and knowing it, to defeat its views. In every government of earth is some trace of human weakness, some germ of corruption and degeneracy, which cunning will discover, and wickedness insensibly open, cultivate and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositories. And to render even them safe their minds must be improved to a certain degree. This indeed is not all that is necessary, though it be essentially necessary. An amendment of our constitution must here come in aid of the public education. The influence over government must be shared among all the people."[7]

Although many American founders were convinced that education was important for the welfare of the Republic, there was little agreement concerning just what kind of history teaching would best prepare citizens to make better political judgments and thus become better citizens. If textbooks prevailing in the 19th century can be trusted as guides, it was widely assumed that history ought to be taught as a handmaiden to Protestant Christianity, and that the teaching of government ought to be a handmaiden for Federalist orthodoxy.[8] Then in the late nineteenth century things began to change. Important as it is, I cannot deal here with the history of the teaching of history. I can only mention a few generalizations, drawn principally from the excellent and detailed research being

conducted by Hazel Whitman Hertzberg and also from some secondary studies of my own.[9]

Models of the Past

Toward the end of the 19th century and the opening of the 20th century, the teaching of history in the secondary schools was increasingly influenced by professional and academic organizations whose committee reports helped to shape the textbooks and the pedagogical concerns for several decades. Of particular importance was the effort to stiffen and expand the study of history (and thus reduce the emphasis on civil government) by introducing more rigorous scholarly knowledge into the history texts and courses. In 1892, the Madison Conference on History, Civil Government, and Political Economy made proposals that became a part of the overall re-examination of the entire secondary school curriculum undertaken by the Committee of Ten of the National Education Association whose report was published in 1893 and again in 1894.

Hailed by the president of the National Education Association as "the most important educational document ever published in the United States," the report of the Committee of Ten dealt with nine subject matter fields pertaining to the secondary schools. The order of listing was not insignificant, reflecting the predominantly collegiate and academic concerns of the overall Committee as well as those of the nine sub-committees:

1. Latin
2. Greek
3. English
4. Other Modern Languages
5. Mathematics
6. Physics, Chemistry, and Astronomy
7. Natural History (Botany, Zoology, Physiology)
8. History, Civil Government, and Political Economy
9. Geography

The hierarchy of studies proposed by the Committee of Ten in its model courses is clear:

(a) The social studies rank much lower than the languages, mathematics, and the sciences.

(b) Within the field originally called History, Civil Government, and Political Economy, the attention to history is by all odds predominant.

In fact, the Madison Conference, which drew up the report on these subjects, recommended that political economy not be treated as a separate subject in the secondary school, and that civil government by and large should be treated historically. This handed over instruction about civil government and the Constitution largely to history. Throughout the Conference's report the usual terms became "history and kindred subjects," or "history and allied subjects" or "history and related subjects."

The predominance of an historical outlook is explained in part by the composition of the Madison Conference. Four members were historians, including Charles K. Adams (European history), president of the University of Wisconsin and chairman of the Conference; James Harvey Robinson, European historian at Pennsylvania; and Albert Bushnell Hart, American historian at Harvard, secretary of the Conference. In addition they were counseled by two of Wisconsin's most noted historians: Frederick Jackson Turner, American history; and Charles H. Haskins, European history. Three members represented political science and political economy, including a Princeton professor by the name of Woodrow Wilson. Three members were secondary school headmasters or principals.

As it turned out, the Madison Conference report did not make citizenship as explicit in the purposes of history teaching as did Frederick Jackson Turner in the 1891 *Wisconsin Journal of Education*, the year before the Conference report was drawn up:

> I must conclude my remarks [on "The Significance of History"] with a few words upon the utility of history as affording a training for good citizenship. Doubtless good citizenship is the end for which the public schools exist.... History.... is more than past literature, more than past politics, more than past economics.... History has a unity and continuity; the present needs the past to explain it; and local history must be read as part of world history.... But perhaps its most practical utility to us, as public school teachers, is its service in fostering good citizenship.... We must make history living instead of allowing it to seem mere literature, a mere narration of events that might have occurred on the moon. We must teach the history of a few countries thoroughly rather than that of many countries superficially.[10]

Agreeing with the committees of all the other subjects, the Madison Conference argued that there should be no distinction in the aims or content of history and kindred studies for those students who were going on to college and those who were not. The purposes were a strong intellectual dis-

cipline for future citizens, namely, to ". . . broaden and cultivate the mind; . . . counteract a narrow and provincial spirit; . . . prepare the pupil in an eminent degree for enlightened and intellectual enjoyment in later years; . . . and . . . assist him to exercise a salutary influence upon the affairs of his country."[11]

The Conference came back to this theme time and again: ". . . history and its allied branches are better adapted than any other studies to promote the invaluable mental power which we call the judgment." It also gave a passing bow to history as "the best training in patriotism," and even very important for "moral training," but the training of the judgment was above all history's finest role in the preparation of citizens:

> To sum up, one object of historical study is the acquirement of useful facts; but the chief object is the training of the judgment, in selecting the grounds of an opinion, in putting things together, in generalizing upon facts, in estimating character, in applying the lessons of history to current events, and in accustoming children to state their conclusions in their own words.[12]

Thus, the Conference recommended that history and kindred subjects ought to be studied in every one of the years of the grammar school (grades 5-8) and of the high school (grades 9-12). Attention to civil government is specified in the U.S. History course in the 7th grade and again in U.S. history in the 11th grade. While oral stories of biography and mythology could dominate grades 5-6, systematic history should be taught thereafter:

Grade 7 - U.S. history

Grade 8 - Greek & Roman history (with their oriental connections)

Grade 9 - French history (medieval and modern)

Grade 10 - English history

Grade 11 - U. S. History

Grade 12 - A year of intensive study of a special topic or period in history

Whether the eminent historians of the Madison Conference ever really expected the schools of the nation to give so much attention to chronological history is uncertain, but they nevertheless made the case for a prominent role for history throughout the middle and upper grades of common schooling. The overall Committee of Ten, however, could find room in

their models for no more than 6-10 units out of a total of 80 during the four high school years.

When it came to civil government as such, the Madison Conference found that not more than one grammar school in six offered such study, but possibly one high school in three did so. In most cases, civil government consisted of a textbook studied during part of a year and seldom associated with history. And the Conference did not, for whatever reasons, think it necessary to recommend precise grounds to be covered by civil government. It simply mentioned that several approaches could be made: start with local government and proceed outward to the national government; or begin with the most attractive aspects of national government such as the post office, army, or navy; or associate practical ethics or rules of conduct with government.

The Conference contented itself by urging that the teaching of civil government be made more practical and functional than the rote memorizing or clause-by-clause analysis that seemed to be encouraged by most of the civil government and Constitution manuals produced prior to 1890. It resolved that

> . . . civil government in the high schools should be taught by using a text-book as a basis, with collateral reading and topical work, and observation and instruction in the government of the city, or town, and State in which the pupils live, and with comparisons between foreign and American systems of government.[13]

Again, with rather obvious disdain for the textbooks that treated the Constitution in great detail, the Conference summed up its views on civil government as follows:

> Your Conference . . . would express the belief that the theoretical questions of government, such as the origin and nature of the state, the doctrine of sovereignty, the theory of the separation of powers, etc., are very difficult to teach to children . . . . On the other hand the simple principles underlying the laws which regulate the relations of individuals with the state, may be taught by specific instances and illustrations; and the machinery of government, such as systems of voting,may be constantly illustrated by the practice of the communities in which the children live.[14]

It seems clear that the predominant tilt of the Conference was not only toward studying civil government and the Constitution as a part of history, but within civil government itself to stress the values of sending children to observe local, and possibly state, government, in action, to visit local courts and city councils, and to engage in mock town meetings and legislatures as well as encouraging them to write papers on the local institutions

near to them.[15] In any case, systematic and sustained study of the text or the principles underlying the Constitution was not high on the agenda of the Madison Conference or the Committee of Ten.

This early alliance between the academic enthusiasts within the National Education Association and within the recently organized American Historical Association (1894) thus served the purposes of promoting history in the school curriculum as a prime agency for preparing good citizens. Then, additional support came from the historical profession itself in a series of its own committee reports sponsored by the American Historical Association around the turn of the century. Probably the most important of these was the Committee of Seven appointed in 1896 and reporting in 1899.[16] There was much continuity with the arguments and views of the Madison Conference, especially through the memberships of A.B. Hart and C.H. Haskins. This time the American historians were more evenly balanced with the European historians: three American historians (Andrew C. McLaughlin of Michigan, chairman, along with Hart and Herbert B. Adams of Johns Hopkins) and three European Historians (Haskins, Lucy Salmon of Vassar, and H. Morse Stephens of Cornell).

The Committee of Seven reaffirmed the importance of "historical thinking" as a basic preparation for citizenship and the special value of studying civil government from a historical point of view, but it moved closer than the Madison Conference had done to giving special treatment to civil government as a formal study in its own right. The general goals were clear:

> . . . the most essential result of secondary education is acquaintance with political and social environment, some appreciation of the nature of the state and society, some sense of the duties and responsibilities of citizenship, some capacity in dealing with political and governmental questions, something of the broad and tolerant spirit which is bred by the study of past times and conditions.[17]

In view of the deep interests in political and constitutional history of McLaughlin, Adams, and Hart, it is not surprising that the study of political ideas and institutions should play a leading role in their views of history:

> In the study of American history it is especially desirable that the development of the political organizations be clearly brought forth. Nothing should be allowed to obscure the leading features of our constitutional system. The pupil must see the characteristics of American political life and know the forms and methods, as well as the principles of political activity. He must have knowledge of the ideals of American life, and must study the principles of American society as they have expressed themselves in institutions and embodied themselves in civic forms.[18]

The Committee proposed a continuous series of courses each a year long during the four years of high school:

1. Ancient History
2. Medieval and Modern European History
3. English History (with considerable emphasis on political and constitutional institutions)
4. American History and Civil Government

When it came to the fourth year, the Committee reaffirmed the value of studying history and civil government together, but it did allow, somewhat reluctantly, that it might be advisable to give special attention to the study of civil government and the Constitution if the best of circumstances obtained:

> In any complete and thorough secondary course in these subjects there must be, probably, a separate study of civil government, in which may be discussed such topics as municipal government, state institutions, the nature and origin of civil society, some fundamental notions of law and justice, and like matters; and it may even be necessary, if the teacher desires to give a complete course and can command the time, to supplement work in American history with a formal study of the Constitution and the workings of the national government. *But we repeat that a great deal of what is called civil government can best be studied as a part of history.* To know the present form of our institutions well we should see whence they came and how they developed; . . .[19] [Italics added]

The key to the Seven's emphasis on history as an agent for civic education was that it developed the art of historical thinking among pupils, not so much the art of historical investigation. This was a disapproval of a movement that had appeared in the 1890's to stress analysis of documents and the use of primary sources as a means of training pupils to search for historical materials, weigh evidence, and draw conclusions. In place of this "source method" the Seven preferred a good textbook that would clearly show sequence and relationships, after which documents like the Constitution and the Declaration could be studied. But too often the study of actual documents was admitted to be dull and unrewarding. In any case, American history textbooks of the era and thereafter almost universally carried the text of the Constitution and some considerable narrative concerning its origin and basic ideas during its framing and adoption. It was usually treated with utmost deference and respect.[20]

But the historians could not keep civil government largely to themselves and to the study of history. An A.H.A. Committee of Eight on history in the elementary schools conceded in 1910 that there should be a separate civics course in the 8th grade; and their Committee of Five later admitted that special treatment should be given to civil government in the 12th grade course, recommending two-fifths of the year to government and three-fifths to American history.

The pressures from outside as well as within the academic profession were building up to give much more separate and special attention to the study of government apart from history, but, as we shall see in Chapter 2, these pressures did not necessarily result in more explicit attention to the study of the Constitution. In fact, a combination of rising professional aggressiveness on the part of the new American Political Science Association (1902-03), the political reform measures promoted by the National Municipal League (1901), and the progressive educational and social reform impetus in the National Education Association were all involved.

The point is that when history became a separate, identifiable, and important subject in the secondary school curriculum toward the end of the 19th century, it was promoted by many professional historians as a disciplinary subject purporting to be equal in value to the classics and mathematics for training the mind as the prime means of civic education. Later, when progressive historians and social scientists of the early 20th century urged the reform of secondary education, they viewed the cultivation of good citizenship from a different perspective but still in the forefront of the goals of the social studies and of history itself. The two most influential exponents of this view were the leading American historians, James Harvey Robinson and Charles A. Beard.[21] They argued for a kind of history that would primarily "speak to the present" and be seen as related to the present life interests of students, and to the contemporary concerns of educated citizens in general. They also argued for an alliance between the new social sciences and the new history as a key to the civic mission of education.

The generally liberal and progressive view of the New Deal tended to permeate the reports of the Commission on the Social Studies of the American Historical Association, supported from 1929 to 1934 by the Carnegie Corporation. Seventeen volumes were issued between 1932 and 1937. The dominant tone of the most widely read volumes (such as those by Charles A. Beard, George S. Counts, Merle Curti, and Charles E. Merriam) was reflected in the *Conclusions and Recommendations of the Commission*: the age of excessive individualism and laissez-faire in the economy and government was closing and a new collectivity requiring more social planning and governmental regulation was emerging. The reasons sound familiar today: deprivation in the midst of plenty, ine-

quality in income, widespread unemployment, wasted natural resources, rising crime and violence, subordination of public welfare to private interest, and international struggle for the world's raw materials. A particular curriculum was not promulgated, but it was clear that the Commission hoped that their reformist view of political and economic life would guide specific curriculum-making for civic education programs. The clear implication was that youth should be taught the values of economic collectivity and interdependence in place of laissez-faire while still valuing personal freedom and cultural pluralism.[22]

Then, in the 1960s and early 1970s a strange combination of influences served to dilute the civic purposes of the school curriculum in general and the social studies in particular. The growth of specialized research in history and in the social sciences diverted the attention of teachers away from history as a molder of political judgment. On top of this, the wave of protests and campus unrest attendant upon Vietnam and Watergate led to a distaste for an allegedly irrelevant study of the past as well as rejection of the role of education in developing anything that sounded so chauvinistic or old-fashioned as "civic virtue." The "New Social Studies" of the 1960s and 1970s were largely ahistorical, if not antihistorical, and largely indifferent to the civic mission of education. Hazel Hertzberg summed up the new social studies view as follows:

> Citizenship education--as represented by the traditional civics, government, and "problems of democracy" courses--was ignored, or assumed to take care of itself when intellectually able and inquiring citizens were produced. The new social studies were unified by a shared approach and shared methodologies, not by a conception of shared content or shared civic purposes. Clearly something had to give. History, it was agreed, had to move over.[23]

B. What Role for History in the Social Studies?

So, we come to the mid-1970s. It is clear that in the past decade the educational profession in general and the social studies profession in particular have begun to reassert more forcefully than for nearly half a century the argument that education for citizenship is the fundamental purpose of universal education in American society. Several signs of this revival of the civic mission of education are apparent, but the nagging question will not go away: Will history teaching become a significant element in this revival, or will the revival be left to civics/government, law-related education, moral and ethical education, and other off-shoots of the social sciences and humanities?

For the past dozen years, the chorus of voices on the citizenship theme has been rising and the stated consensus among professional educators has

been widening both outside and inside the social studies. Again, I can mention only a few instances. In 1975, the board of directors of the National Council for the Social Studies (NCSS) resolved that citizenship education should again become the main focus of social studies. In 1977, Barr, Barth, and Shermis asserted: "After decades of disagreement, there is now general agreement that the primary, overriding purpose of the social studies is citizenship education." In 1979, the governing boards of twelve professional education associations (including NCSS) endorsed a statement on The *Essentials of Education* which claimed flatly: "Educators agree that the overarching goal of education is to develop informed, thinking citizens capable of participating in both domestic and world affairs." The 1979 Revision of the NCSS Social Studies Curriculum Guidelines stated: "The basic goal of social studies education is to prepare young people to be humane, rational, participating citizens in a world that is becoming increasingly interdependent."[24]

In 1980 the NCSS *Essentials of Social Studies* went so far as to enumerate the democratic beliefs that should permeate exemplary social studies programs and listed them under the unadorned heading "Democratic Beliefs":

> Fundamental beliefs drawn from the Declaration of Independence and the United States Constitution with its Bill of Rights form the basic principles of our democratic constitutional order. Exemplary school programs do not indoctrinate students to accept these ideas blindly, but present knowledge about their historical derivation and contemporary application essential to understanding our society and its institutions. Not only should such ideas be discussed as they relate to the curriculum and to current affairs, they should also be mirrored by teachers in their classroom and embodied in the school's daily operations.
>
> These democratic beliefs depend upon such practices as due process, equal protection and civic participation, and are rooted in the concepts of
>
> Justice
>
> Equality
>
> Responsibility
>
> Freedom
>
> Diversity
>
> Privacy [25]

In 1983 the NCSS Task Force on Scope and Sequence echoed the *Essentials* statement almost word for word, adding to the heading "Democratic *Values* and Beliefs" [italics added] and to the list of concepts:

> Rule of Law
>
> International Human Rights [26]

In these and many other statements of the general goals of social studies, history of the United States and of the world usually leads the lists of areas of knowledge which should be taught as the means whereby social studies achieves the goal of knowledge, democratic values, and the skills of thinking and participation.

These statements emanating from national organizations and from NCSS were echoed in the California *History-Social Science Framework* of 1981:

> The central purpose of history/social science education is to prepare students to be humane, rational, understanding, and participating citizens in a diverse society and in an increasingly interdependent world - students who will preserve and continue to advance progress toward a just society.[27]

Let me underline the key words of consensus in these statements:

> The *primary, overriding* purpose . . . .
>
> The *overarching* goal . . . .
>
> The *basic* goal . . . .
>
> The *central* purpose . . . .

These are strong and important adjectives with which to describe the priority role of citizenship education in American schools in general and in the social studies in particular. I believe that it is both timely and extremely important that the profession and the public take these statements more seriously than ever and that they be applied to history as well as to the social sciences. But the question is whether the courses, the textbooks, and the teachers of history will take the generalities seriously. For many reasons the task will not be easy. On one side, there are those who argue for a value-neutral approach to the social studies in the schools as well as to the social sciences in universities; and, on the other, those in the excellence movement who campaign for reinstating chronological history as the central core of what they disparage as a jumble of incoherence called "social studies".

The academic profession has long been uneasy about the whole question of "values" in teaching the social and political sciences. This has sprung from a genuine belief in value-free or value-neutral behavioral science and in empirical scientific methods as well as a fear of indoctrination, censorship, and partisan interference in the educative process. The experiences of the late 1960s and early 1970s with Vietnam, Watergate, and campus unrest made many, if not most, teachers wary or even hostile toward espousing anything that approached a flag-waving patriotism. The very phrase "Be a good citizen" often brought forth ironic laughter or jeers.

Thus, many social studies teachers felt comfortable with a "New Social Studies" that stressed the structure and methods of the social science disciplines, or with an "inquiry method" that skirted questions of indoctrination or inculcation of values. "Competency-based behavioral objectives" were transferred to citizenship competencies with little or no mention of values. And even when values were directly confronted, it was often with a stress upon the process of valuing rather than upon substantive study of the value concepts basic to a democratic society.

In this connection, I only mention one article on values clarification addressed to social studies teachers in which a leader of these views, Sidney Simon, said:

> In place of indoctrination, my associates and I are substituting a *process* approach to the entire area of dealing with values in the schools, which focuses on the process of valuing, not on the transmission of the "right" set of values. We call this approach values-clarification, and it is based on the premise that none of us has the "right" set of values to pass on to other people's children.[28]

Elements of this non-evaluative point of view on "valuing" are clearly present in the earlier NCSS Curriculum Guidelines of 1971 and 1979 and in the California *Framework for Social Sciences* of 1975. But my point is that an important momentum in the profession, in the academic world, and in the public is now stressing that mere process in "valuing" will no longer do in an increasingly fragmented and fractionated society. Within the social studies profession itself, as I have just said, the calls for greater and closer attention to democratic values have been growing during the past decade. The question is whether the excellence movement's stress on "returning" to chronological history will take the generalization about civic values as seriously. There is both good news and ambiguous news.

The Impact of the Excellence Movement

The ambiguous news is illustrated in the arguments for reinstating chronological history as the staple and core of the social studies. Some of these calls do indeed rely on citizenship as a basic justification for teaching

history, but it is not clear that they will necessarily make civic values an explicit element in the substance and content of chronological history study.

Let me be clear. I believe in chronological history. I taught history chronologically for 40 years. The basic issue to my mind is what should be taught and learned chronologically. Historians and teachers must make selections from the infinite range and scope of facts, events, institutions, and ideas that are available for teaching and learning in school history. I am proposing that civic values become the major principle of selection in one or more required history courses.

It is not clear to me how much emphasis the advocates of restoring history to the center of the curriculum would put on civic values. Often, the excellence leaders preferred to speak of history, civics, and geography rather than "social studies". This seems to imply that the civic values should be allocated to civics or government and that history should be primarily concerned with broad civilizational narrative, aimed at the cultivation of intellectual and cultural enrichment appropriate to the study of the humanities.

For example, in the conclusion of the book they edited in 1984, Chester E. Finn, Jr. and Diane Ravitch state the case for the role of the humanities in civic education as follows:

> As a society, we have understood that every citizen must have the education that is necessary for him to be free, to choose wisely for himself how to live responsibly and well . . . Well taught and well learned, the humanities are the strongest democratizing force that formal education can muster.[29]

Finn and Ravitch offer twelve recommendations for upgrading the quality of teaching the humanities in the schools, stressing their contributions to implanting values, reliance on the scholarly disciplines, sustenance of an active intellectual life, and higher standards of achievement and preparation of teachers. In their recommendations for the curriculum in the social studies they said this:

> . . . the phrase "social studies" should be banished from the high school curriculum. What should be taught and learned is history, and this must consist fundamentally of the history of the United States, the enveloping history of Western civilization, and the parallel history of non-Western civilizations. By history we do not mean only--or primarily--the memorization of dates and facts or the identification of wars and political leaders, though these have their place. Properly conceived, history includes the history of ideas, cultural developments, and social, political, and economic movements. It includes the evolution of diverse cultures and the changing relationships among peoples, races, religions, and

> beliefs. Everything worth learning that is commonly found under the rubric of "social studies" can be taught and learned as history, but only if it is taught and learned in an essentially chronological framework can the student emerge with a sense of how he and his society came to be what they are and where they are at the present time. And only with that understanding of the past can the student reasonably hope to know where and how he would like himself and his society to be in the future--or what is entailed in getting there.[30]

It is difficult for me to ascertain whether in this view the interest in history as civic education is as strong as the interest in reestablishing narrative chronological history as the linchpin of social studies in the schools. The answer could well be that they must go together, by repeating the argument that history is "the strongest democratizing force that formal education can muster." The correlative seems to be that social studies not only are not, but cannot be, as strong a democratizing force as history is or can be.

At any rate, the case for reinstating history at the center of social studies has been espoused more often and in more public forums than is usually accorded to such matters of curriculum and pedagogy. William J. Bennett carried this message in many speeches and publications as chairman of the National Endowment for the Humanities before 1985 and as Secretary of Education after 1985. More than once his theme was that American schools are failing to transmit adequately our democratic heritage and a major reason is that social studies have been dominated by a cultural and moral relativism. And history is in danger of becoming absorbed in the "smorgasbord of this and that known as social studies." The cure? Teach chronological history:

> How then are we to restore the American faith in the principles of liberal democracy? A good way to begin, it seems to me, would be by recognizing the importance and the value of the study of history and by taking the necessary steps to strengthen history as a subject taught in the schools. . . . By studying American history, and yes, celebrating its heroes explicitly for each generation, and noting its achievements as well as its failures, our students are invited to grasp the values of our political tradition . . . . our schools should treat history as an autonomous discipline, related to, but distinct from, the social studies.[31]

For more than a decade similar calls began to emanate from academic and professional spokesmen urging that history be restored to a preeminent place in the curriculum. In the mid-1970's the Organization of American Historians lamented the decline in the teaching of history in the face of the fragmentation of the central core of social studies and the proliferation of

elective courses in psychology, economics, consumer education, environmental studies, and multicultural studies of minority groups. By the mid-1980s the mandates for increased attention to history were extending from major articles in *The New York Times* and other publications to legislatures and boards of education, which were increasing requirements for high school graduation.[32] Some of these calls for more history stressed the political and civic role of history; most did not do more than give passing reference to citizenship.

One widely circulated statement that closely linked history and the civic mission of schools was issued in May 1987 by the American Federation of Teachers joined by the Educational Excellence Network and Freedom House. It was signed by 150 persons from many walks of public life, representing a wide spectrum of political and educational ideology. It focused directly on using history as the principal means whereby schools can impart to all students the knowledge and commitment necessary to achieve the ideals of a free and democratic society. The 22-page statement of principles on education for democracy frankly assumed that democracy is the worthiest form of human governance and affirmed that:

> . . . democracy's survival depends upon our transmitting to each new generation the political vision of liberty and equality that unites us as Americans--and a deep loyalty to the political institutions our founders put together to fulfill that vision.[33]

The statement rejects propagandistic instruction, "knee-jerk patriotic drill," "pious texts," and censorship. It calls for balanced, objective, scholarly treatment of the fundamental ideas of our constitutional order, its achievements and failures over time. And it concludes with a reaffirmation of the study of history "as the chief subject in education for democracy." It does not, however, reject the idea of social studies as a basic flaw in the curriculum, but instead installs history as the central core and integrative element around which geography, civics, the humanities, and world studies would revolve.

I believe this *Statement of Principles* on teaching democracy in the schools struck a high point in public discussion of civic values in the educational reform movement of the mid 1980s. It gained a good deal of attention among columnists and op ed writers of both liberal and conservative persuasion. But it did not meet with as much universal approbation among social studies professionals themselves, some of whom did not wish to see history given such a high priority in the field and some who suspected a hidden conservative political and pedagogical agenda in its publication, despite the broad spectrum of views among the signatories.[34]

I, too, had some misgivings concerning one or two examples of charging social studies teachers with bias toward "moral relativism" as cited in the

document, which were purported to be typical of a "social studies" approach in general. But, on the whole, I supported the general position that the historical perspective is necessary for informed citizenship and that it cannot be achieved solely by a disjointed "problems" approach to social studies. Still, I would argue that only that kind of narrative or chronological history which deals explicitly with civic problems and civic concepts will provide the kind of historical perspective that citizens need. Just any kind of narrative history will not do.

The case for reinstating chronological and narrative history (and literature) as the core of the humanities in the schools was carried to new heights by two reports in 1987, both of which received wide publicity and attention in the public as well as the professional press. They both evoked some of the sentiments of the Madison Conference, the Committee of Ten, and the AHA Committee of Seven, if not their recommendations for the details of historical content. Both continued to downgrade the role of social studies in favor of chronological and narrative history and thus to irritate social studies professionals, and even to elicit the criticism of academic historians.

The first report to appear (by 11 days) was issued by Lynne V. Cheney, chairman of the National Endowment for the Humanities. The second was by Diane Ravitch and Chester Finn. Despite a momentary flap over who scooped whom and by what authority did they reveal the results of a National Assessment study, the two reports served to reinforce each other. They echoed the points of view regarding the humanities as earlier stated by Ravitch and Finn and by William Bennett, Cheney's predecessor at N.E.H. Cheney's slim pamphlet said almost nothing explicit about citizenship except in the broadest references to the satisfactions of mature thought, an attachment to abiding concerns, and a perspective on human existence to be achieved by studying our heritage.[35]

For their part, Ravitch and Finn went into considerable detail concerning the tests of knowledge of history and literature produced by the National Assessment of Educational Progress. They were alarmed that a large sample of 17-year olds was so ignorant of so many important things that young adults should know. They concluded that the younger generation and "generations to follow are at risk of being gravely handicapped by that ignorance upon entry into adulthood, citizenship, and parenthood."[36]

Ravitch and Finn made it clear that the 141 items on the test embraced not only chronology of events, geography, important people (including women), science and technology, labor and industry, demography, and international affairs, but also 19 questions on the Constitution and 21 questions on civil rights. The students' average performance on these explicitly civic questions approximated their "overall performance on the entire history assessment, which is to say it is unsatisfactory."[37] Thereupon,

Ravitch and Finn made their strongest affirmation of the importance of history in civic learning:

> These questions [on the Constitution] are gathered into a cluster not only because we happen to be observing the two hundredth anniversary of the U. S. Constitution, but also because they represent perhaps the strongest single reason for studying and knowing American history. More is involved than antiquarian interest or intellectual gymnastics. The system by which we govern ourselves today is comprehensible only if its history is understood. Otherwise it is a pastiche of seemingly random rules and capricious practices. Moreover, many of the most profound issues of contemporary society--having to do with civil and individual liberties, equality of opportunity, the tensions between freedom and order, and the relationships between majority rule and minority rights--have their origins and their defining events in the evolving drama of the Constitution. Yet our youngsters do not know enough about that drama, either in general or in specific terms, to reflect on or think critically about its meaning.[38]

Yet, when Ravitch and Finn come to their concluding chapter and make their specific recommendations for improving the teaching and learning of history and for the education of teachers, this strong affirmation of the civic purpose of history is strangely muted except in the generalizations of the final paragraphs on why study history. There, it is clear that the elements of cultural literacy should be at the disposal and command of all young people, not just the children of the elite.[39]

The report, the analysis, and recommendations by Ravitch and Finn received a great deal of commendation for urging more and better teaching of history in the schools and in teacher education. But they also elicited a good deal of criticism. This might be expected to come from several social studies professionals, and it did.[40] But it also came from such an astute observer as Harold Howe II, formerly U. S. Commissioner of Education and now at Harvard's Graduate School of Education.[41] And most surprising, perhaps, was the critique by historian Stephen R. Graubard, editor of *Daedalus*, the journal of the American Academy of Arts and Sciences, in an op ed piece in *The New York Times*, entitled "Alarmist Critics Who Cry Beowulf." Arguing that we need to attend to fundamental problems like the values we espouse in families, communities, and the media rather than simply to factual recognition of events in history, he said:

> These problems are not likely to be resolved by sounding the tocsin, even less by administering tests that reflect little more than a nostalgia for a past learning that cannot be recaptured and that

> would, if reinvented, render most Americans unfit for the world they are required to live in.
>
> A more deliberate effort is called for--one that is more judicious in its weighing of educational gains and losses in recent decades and that takes into account why our nation today is not the one that Teddy Roosevelt once governed, and why there may even be reason to be grateful that it is not.[42]

So, even if we admit with Ravitch and Finn and the NAEP test results that there are "yawning gaps" in students' knowledge of historical events, persons, chronology, and geography, then what? The next question will be--or should be--what do we fill the gaps with? More political history? More economic history? More social history? More intellectual history? More biography? More family history? More minority and women's history? More constitutional history? More religious history? More traditional values? And if more of any of these, how much less of what else? What principles of selection shall we use to answer these questions?

Surveys of History Textbooks

A number of studies and surveys of popularly used history textbooks in the mid-1980s came up with varying answers. Ellis Katz of Temple University found that U.S. history texts neglected the history of federalism, and he proposed more.[43] Three different projects found that U.S. history texts neglected the history of religion and they all proposed more--but quite different--attention to religion, one stressing its positive and beneficial influences in our history, the two others stressing the values of freedom of religion and the separation of church and state.[44]

Paul C. Vitz, psychologist at New York University, attributed the neglect of religion to the prior decades of liberal bias against Christian morality and traditional family values, arguing that these should be portrayed more positively and favorably in school textbooks. Surveys by Charles C. Haynes of the Americans United Research Foundation and by a panel of experts for People for the American Way argued that much more attention should be devoted in our history books to the values of religious diversity, religious freedom versus religious intolerance, and the role of religion in fueling social movements as different as abolition, prohibition, and civil rights. The latter attribute the neglect of religion not to liberal bias, but to the fear of publishers of trodding on the sensitive toes of religious groups protective of their particular beliefs. In any case, publishers and authors will probably try to approach the difficult and complex story of religion in history and society. The California State Board of Education adopted in July 1987 a *Framework for History/Social Science*, which explicitly calls for new textbooks to carry such material.

Two major surveys of history textbooks undertaken around 1985-86 produced interesting but somewhat contradictory results. The first to be published was sponsored by People for the American Way and conducted by a panel of teachers and professors of history, chaired by O. L. Davis, Jr. of the University of Texas at Austin. The panel employed eight criteria in their evaluation of 31 U.S. history textbooks widely used in the 8th and 10th or 11th grades. Six of the criteria had to do with the quality of the books in living up to the canons of historical scholarship and historiography; and two had to do with their appeal in engaging the involvement of students in their own learning and the quality of their writing.[45]

Despite inadequacies that still remain in the treatment of minorities, literary quality, and avoidance of religion, the panel found that most of the texts were very good and some were excellent on the criteria used in evaluation. In general, the panel believed that most of these 1986 texts were considerably improved, in contrast to the public and professional condemnations of "dumbed-down" texts that had become so popular. The watering down trend was being reversed. This judgment of the panel was affirmed in the Preface by Joan Hoff-Wilson, executive secretary of the Organization of American Historians, who bespoke the support of the O.A.H. in the review.

Of particular interest here is the fact that both Professors Hoff-Wilson and Davis gave special point to the civic as well as the intellectual purposes of teaching U.S. History. In summarizing, Davis virtually denied that the books reflected a moral or political relativism:

> The United States of America is presented in a positive light by all of the textbooks that were studied. At the same time, these books do not attempt to obscure recognizable blemishes on the story of our nation's continuing progress. This generation of U.S. history textbooks, obviously, has walked the razor's edge, promoting history narratives that are both positive toward our country and include episodes and interpretations that reveal our history as truly human and believable . . .
>
> The textbooks follow traditional intentions to aid student's acquisition of fundamental and shared sentiments about our country and national life. The authors recognize their obligation to stress intellectual understanding of major principles and concepts and common loyalties in our nation's heritage, but they do not indoctrinate.[46]

In looking to the future on a similar note, Professor Hoff-Wilson expressed the hope that

> . . . with the bicentennial of the U.S. Constitution in 1987, it is quite conceivable that textbooks for the next decade should place more emphasis than before on the significance and interpretation of key passages of, and amendments to, this hallowed document in American history.[47]

I found these generalizations to be encouraging signs for improving history's role in civic education.

A second major evaluation of history textbooks turned out to be not so encouraging. Under the sponsorship of the American Federation of Teachers, the Educational Excellence Network, and Freedom House, Paul Gagnon, professor of modern European history and chairman of the history department at the University of Massachusetts at Boston, undertook to study several world history textbooks. In contrast to the general evaluation criteria used by the Davis panel, Gagnon zeroed in on judging how well several widely used texts told the story of democracy in Western and American history.

Gagnon based his evaluation on the AFT *Statement of Principles* just described, the principal drafts of which he also wrote. Although he found some good things to say about the five world history texts, which he analyzed in depth, his general conclusion is as follows:

> These world history texts leave the story of democracy largely untold. Its ideas and principles are left unclear, incomplete. Its origins, adventures, needs, and significance are nowhere systematically presented. Relying on such books alone, teachers cannot teach, and students cannot grasp, the compelling story of people's struggles for freedom, self-government, and justice on earth.
>
> With certain exceptions . . . the textbooks lose chance after chance to develop the political sophistication of students. From the very start, students find little reason for the study of history or the connection its study might have with intelligent citizenship. The texts do not tell them, and the same is true, as we shall later see, of schoolbooks in United States history and even in American government. The uses of history are neither explicit nor implicit as the narrative proceeds. Although each period, from ancient Greece to our time, could offer vital lessons to democratic citizens, such lessons are for the most part absent.[48]

I would not attempt to appraise the critical evaluation that Gagnon made of each book as it deals with his 13 chronological periods of mainly Western history from the Greeks to the present. I have no doubt that the respective authors and advocates of non-Western history or social history

will have plenty to say. But I believe that the general intent to make the study of history contribute more explicitly to the development of intelligent and informed citizenship is directly on the mark and that the questions he asked of the books are the right questions:

> . . . what do the texts contribute to the students' knowledge of political democracy? As basic materials in the social studies curriculum for civic education, do they make clear the essential ideas and elements of a free society? Are the contrasts between free and unfree governments set forth? Are democracy's origins, development, and present situation in the world made clear? Will students find the facts and explanations they need to comprehend those forces that have nourished democracy--and those that have opposed and frustrated it?
>
> On the other hand, are the sources, ideas, and institutions of authoritarian and totalitarian societies, past and present, equally clear? Is the coverage honest and balanced? Are all societies past and present, put into reasonable perspective and all, including our own, judged by coherent and consistent standards? Finally, are major themes and questions set forth and the relevant facts, ideas, and explanations offered in ways likely to engage the student and facilitate the teacher's work?[49]

Gagnon concludes his analysis by suggesting that there might be other themes that could well be used to overcome the encyclopedism and blandness of history texts. He mentions such themes as modernization (the transition from traditional to modern societies), the role of influential religions and ideologies, the interactions of major civilizations upon one another, or the story of human progress. I believe that these are all good suggestions and have even used them in my own writings on the history of education. But I now urge what is the theme of this book. If our goal in teaching history is the improvement of citizenship, why not make the ideas, concepts, practices, successes, and failures of citizenship an explicit, or *the* explicit, theme in the writing and teaching of history?

I hope that the surveys by the Davis panel and by Gagnon will prompt history writers of textbooks to give more attention to the citizenship theme. Unfortunately, to my mind, still another evaluation of history texts missed the opportunity to add its influence in this direction. The Educational Excellence Network asked an advisory review panel to assess eleven widely used textbooks dealing with American history at the elementary and secondary school level. The panel included several historians as well as Jack Beatty, senior editor of *The Atlantic*, and Robert Nisbet, emeritus professor of humanities at Columbia University. They were asked to judge the books primarily on the basis of literary and historiographical quality. Gilbert T. Sewall summarized the panel's assessment as follows:

> It found that many of [the texts] lack a lively writing style, a strong narrative line, and voice. Too often texts are overwhelmed by graphics in a misguided attempt to catch and hold the attention of television-addicted children and adolescents. The report suggests that, as a result of the efforts of various pressure groups, key elements in the many-sided panorama of American history are watered down, distorted, or evaded entirely. The assessment encountered excellent writing and strong textbooks among those surveyed, especially at the eleventh-grade level. It also found compelling evidence of cowardice, commercialism, condescension, and crassness in the writing and publishing of far too many American history textbooks.[50]

So far, so good in the effort to improve the attractiveness and quality of textbooks. The recommendations follow from the guidelines given the panel: reduce the size and weight of textbooks, reduce the graphics and emphasize the text, hire better writers from among talented scholars and teachers (skip the social studies professionals and ghost writers), emphasize primary sources, put minority group issues into the mainstream historical context, and review textbooks for quality as is done for trade and scholarly books in journals and the press. No doubt such recommendations would improve the attractiveness of texts and enhance the interest to students. But sheer attention to literary content and historiography may not necessarily promote the improvement of civic understanding and commitment. If better citizenship is truly the goal of history, why not make it explicit as well as vivid and compelling?

Two major efforts were made in the mid-1980's to promote actual cooperating partnerships between history teachers in colleges and universities and history teachers in the secondary schools. Both gave considerable attention through in-service seminars to knowledge of civic and constitutional history. One was the National Coordinating Committee for the Promotion of History in collaboration with the Organization of American Historians.[51] The other was the History Teaching Alliance, a joint enterprise of the American Historical Association, the National Council for the Social Studies, and the Organization of American Historians. The years 1985-1987 concentrated on the history of the Constitution in the summer seminars and the recurrent seminars held during the academic years.[52]

I applaud these several attempts to highlight civic values in history teaching and history textbooks. I have noted that some very interesting achievements have already been made, although I have not made an elaborate survey. I have been impressed by two such books, in addition to the Patrick and Remy *Lessons on the Constitution* and the special text on the Constitution prepared by the Center for Civic Education for the Bicenten-

nial competition (see Chapter 2). These are *Law in American History* by James G. Lengel and Gerald A. Danzer; and *Reasoning with Democratic Values: Ethical Problems in United States History* by Alan L. Lockwood and David E. Harris, both with accompanying teacher's manuals.[53] I hope this effort to deal directly and explicitly with civic values in the setting of chronological history in the schools will expand and thrive. I hope it draws strength from a heartening parallel movement toward dealing with civic values in the scholarly research and writing of history by academic historians themselves.

C. Citizenship as Paramount Theme

This trend toward dealing with values is noticeable within the academic disciplines themselves. It includes powerful voices in the academic mainstream of humanities and social science scholarship: the Carnegie Foundation for the Advancement of Teaching, *Daedalus* of the American Academy of Arts and Science, the Rockefeller Commission on the Humanities, the Association of American Colleges, and the National Endowment for the Humanities. I shall deal in Chapter 2 with some examples of the recent emergence of normative scholarship in philosophy, political science, sociology, law, and public administration. Some notable scholars have become more concerned with the normative, moral, and civic role of their disciplines in order to counteract the heavily empirical and value-free emphasis that has dominated teaching as well as research in these fields. I can only hint at this trend, which could profitably become a most valuable resource for teachers of history and social studies in the schools, as they seek to give life and vitality to the statements on essentials I have mentioned.

The Normative Impulse among Historians

At this point I can mention only a few examples of a similar trend in history itself. And I can do no better than begin by quoting from the presidential address to the American Historical Association by Gordon Wright, Stanford's eminent historian, who in the aftermath of Watergate called in 1975 for a reaffirmation of history as one of the moral arts:

> . . . I believe that a case can be made for relegitimizing the writing and teaching of history by liberals whose model is neither the neutral scientist nor the "hidden preacher," but the exponent of a self-conscious and coherent value system. If one purpose of historical study is to broaden and enrich the minds of students so that they can shape their own values and arrive at their own judgments (as I think they should), that purpose is likely to be best served if they are not only offered raw data and quantified facts, but also broad exposure to various interpretations of the past. The liberal interpretation belongs in that spectrum: indeed, perhaps more so today than ever before. In our age of unprece-

> dented complexity, when ideological fanaticism, sporadic bursts of tribal fury, and the advocacy of "realism" in both its crude and its sophisticated form put world stability and even human existence at risk, the liberal temper may offer the nearest thing to a set of guideposts through the mine field. Its rejection of a black and white world in which the battalions of good and evil line up in serried ranks, its awareness of ambiguity as a profound pervasive presence in human affairs; its respect for such qualities as skepticism, tolerance, fair-mindedness, and what George Orwell called (for want of a more precise term) "decency"--these traits combine to make up a world view that in some ways overlaps those of the radical or conservative, but proposes its own integrity, its central core of values by which to judge its past and to relate past to the present . . .
>
> What many of us have hesitated to do, I believe, is to take that final step--to risk a conclusion, to make a judgment and defend our view of how things were and why, and what this meant to people of the time, and what it means to people today . . .
>
> . . . our search for truth ought to be quite consciously suffused by a commitment to some deeply held humane values. The effort to keep these two goals in balance may be precarious; but if we can manage it, perhaps we will be on the way to re-establishing the role of history--and not the least--of what we might fairly call the moral arts.[54]

I agree with Wright's general view of the role of history, and I do not hesitate to underline the values as liberal. In another vein, I agree that teachers need what William H. McNeill, chairman of the history department of the University of Chicago, calls a picture of the past "that speaks to the general concerns of ordinary citizens:"

> Specialized "post-hole" courses in subjects of arcane professional debate will not do . . . Better than any other discipline, history can defend shared, public identities--national, civilizational, human, as well as local, ethnic, sectarian.[55]

Paul L. Murphy, professor of American Constitutional History and American Studies at the University of Minnesota, focuses the normative argument explicitly upon U.S. history:

> Students must again be exposed to the constitutional basics of why we retain a two hundred year old document, the principles and values it incorporates, where it has worked and when and how it has failed. Above all they should understand what they can do generally and concretely to see that it continues to function to

> restrain human frailty and channel human creativity toward the positive ends of a society dedicated to "liberty and justice for all."[56]

Recent meetings of historical associations and writings of other noted historians have elaborated the theme that history writing should be "made whole again." Among these have been Lawrence Stone of Princeton, Bernard Bailyn of Harvard, J.H. Hexter of Washington University, and others. I point to two articles of particular relevance to my argument here, both by Thomas Bender, University Professor of the Humanities and Professor of History at New York University. In an article in *The New York Times Book Review* Bender stresses the centrality of the public realm as the coherent theme for history writing:

> Historians, to whom we once confidently entrusted the custody of our public memory of ourselves as a nation, have been unable to pull together the vast mountain of scholarship produced in the past quarter century and make of it a coherent and explanatory account of American life. Both readers and writers have been drawn or directed, by a variety of social and cultural mechanisms, to histories of their chosen or inherited group. It is a phenomenon that may represent a disintegration of the civic sense as much as purely intellectual trends in historiography.[57]

Bender pays tribute to the high quality of the "new history" and its rewarding scholarship about immigrants, blacks, ethnics, women, American Indians, workers, and the social history of ordinary people. But:

> What has not been much explored, however, are the relations among these groups and their relation to public life--that essentially civic arena where groups interact, even compete, to establish the configuration of political power in a society and its cultural forms and their meanings . . . .
>
> In the process of reaching out to incorporate more social territory for historical narrative, writers seem to have lost their bearings, lost their sense of the central institutions of society, of the state and of civic or public culture.[58]

Bender reminds us that the history of public life was the prime goal of Robinson and Beard in their efforts to achieve a synthesis incorporating social and intellectual history with political history. And now he believes historians should return to that task of synthesis and go beyond partial analysis: "They must reclaim the public realm, where groups interact to make a national politics and culture, as the central territory of history."[59]

Bender returned to this theme in a long and scholarly paper in *The Journal of American History* in which he stressed the concept of history as the making of a "public culture" and creating an image of society through the rhetorical structure of theme and plot: "Politics, power, public life--concerns of both Beard and Hofstadter--remain a viable scaffolding for a synthetic national history."[60]

I believe that Bender points in the direction that history writing and history teaching, and indeed the history of education, ought to take. It is in this kind of framework that I believe the theme of civic values could become a lively and enlightening synthesis for the study of history in the schools:

> This essay offers a reconceptualization of our history that stresses the interplay of various groups, usually characterized as homogenous, whether defined socially (for example, ethnic groups) or as private worlds (for example, the family), and the larger, heterogeneous, and contested political and cultural realm of the nation. How do the worlds of private life, the group meanings and interests of smaller social units, affect and effect the configuration of public life? How does the character and quality of relations with public life affect private life and the life of social groups? The present task is to begin establishing the relationship over time of the interclass, multiethnic, and multicultural center, what I call public culture, and the smaller, more homogenous *gemeinschaftlich* groups of the periphery . . . . A focus on public culture and its changing connections with cultures smaller than the whole offers an image of society capacious enough to sustain a synthetic narrative.[61]

This synthetic view of history, however, runs up against the predilection of historians not only to dig deeper into specialized interests but also to try simply to describe narratively what happened in the past, presumably with no ideological biases. This view ranges, interestingly enough, across a fairly wide spectrum of social and political points of view. On one side are those who fear left-leaning historians will slant the history: Diane Ravitch argued at the CLIO Conference for the study of history for its own sake, and Frances FitzGerald has argued that history should be taught simply as the story of the past. On another side are those who are convinced teaching of values will exert capitalist hegemony over students. Revisionist historians of education like Henry Perkinson, Clarence Karier, and Michael S. Katz have argued that history in public schools should not try to teach any lessons of civic values, because it would inevitably indoctrinate a capitalist ideology.[62] More recently, however, left-leaning curriculum specialists have attached their views of political empowerment to education for democratic citizenship.[63]

Renewal of the Civic Purpose in Social Studies

In contrast, the California *Framework* of 1981 argues that the designated civic purpose of social studies is to apply the best scholarship the academic world can produce in history, political and social science, law and jurisprudence, and the humanities in its efforts to perform the citizenship function of dealing with civic values:

> The history-social science curriculum, K-12, should be most particularly and most explicitly concerned with those substantive values which form the common core of American citizenship. At all grade levels and subjects, and in accordance with the developmental capabilities of students, the curriculum should focus on the basic civic values and principles which undergird our democratic constitutional order.
>
> Drawing on ideas suggested by the motto *e pluribus unum* . . . . [t]he authors of this framework adopted . . . [a] conceptualization of those values as follows:
>
> 1. Those which seem primarily to promote desirable cohesive and unifying elements in a democratic political community, or the *unum* values. Among them are these:
>
>   - Justice
>   - Equality
>   - Truth
>   - Authority
>   - Responsibility
>   - Participation
>   - Respect for persons and property
>   - Personal obligation for the public good
>
> 2. Those which seem primarily to promote desirable pluralistic and individualistic elements in a democratic political community, or the *pluribus* values. Among them are these:
>
>   - Diversity
>   - Privacy
>   - Freedom

- Due process
- Human rights

> There is a continuing tension, sometimes overt conflict, between the values of *unum* and the values of *pluribus*. Even so, American democracy historically and presently is committed to honoring and promoting both. Balancing those competing but complementary value claims is essential to the health and vitality of our democracy in society. Balancing those value claims, however, has not proved to be an easy task. The values of *unum* sometimes are distorted or corrupted into such things as "majoritarianism," chauvinism, insistence on sameness or conformity, cries of "law and order" without sufficient regard for justice and due process. The values of *pluribus* sometimes are distorted or corrupted into such things as: anarchy, privatism, self-centeredness, special interest groups which disregard the interest of others or the good of the whole, cultural imperialism, and allegations of being "soft on criminals."
>
> It is essential that students at all grade levels have opportunities to encounter both the cohesive, unifying *unum* values and the pluralistic, individualistic *pluribus* values to which our democratic constitutional society is committed. It also is important that students have opportunities to learn about the distortions or corruptions to which those values or principles sometimes have been subjected so that as citizens they will have the knowledge, the will, and skills with which to prevent such recurrences.[64]

When the California *Model Curriculum Standards* for grades 9-12 of 1985 and the new *Framework* of 1987 were adopted by the State Board of Education, many of these ideas were retained, but not in a similar or schematic form.

I am not at all sure that simply installing chronological narrative history as the centerpiece of social studies will necessarily be sufficient for civic education. I refer to a single, but a very important, example. In July 1987, the California State Board of Education adopted, as it has done every six years, a revised version of the *History-Social Science Framework* for the California public schools, kindergarten through the 12th grade.

In general, I believe that the 1987 *Framework*, which had been in preparation for a year and a half, is an excellent document. It reflects the advice, scholarship, and work of a wide range of academic consultants as well as professional educators, both inside and outside California. It embodies national as well as state points of view. It clearly responds to the call of the excellence reform movement to emphasize chronological his-

tory, closely followed by and integrated with geography, in six of the eight grades from 5th through 12th. And it strongly restates the purpose of history-social science to contribute to preparation for citizenship:

> The goals of this *History-Social Science Framework* fall into three broad categories: *Knowledge and Cultural Understanding*, incorporating learnings from history and the other humanities, geography, and the social sciences; *Democratic Understanding* and *Civic Values*, incorporating an understanding of our national identity, constitutional heritage, civic values, and rights and responsibilities; and *Skills Attainment and Social Participation*, including basic study skills, critical thinking skills, and participation skills that are essential for effective citizenship.[65]

Thus, citizenship stands as the second of three major goals, and it appears prominently in the other two, insofar as all three are integrated throughout the substance of the curriculum. In the introduction to the second goal, the *Framework* states

> The curricular goal of democratic understanding and civic values is centered on an essential understanding of the nation's identity and constitutional heritage; the civic values that undergird the nation's constitutional order and promote cohesion across all groups in a pluralistic society; and the rights and responsibilities of all citizens.[66]

In these respects, the 1987 *Framework* carries forward the stress on civic values, which were so prominent in the 1981 *Framework*. But it does not identify so concisely or explicitly what values it is talking about. All of the 1981 values are to be found somewhere scattered through the long document, if one has in mind what to look for. Whatever the demerits of the 1981 *Framework*, it had the advantage of clarity and conciseness adhering in a schematic listing of concepts, which lengthy paragraphs do not convey so readily.

This is not the place to undertake a critical review of the details of the 1987 *Framework*. My impression, however, is that it does carry forward some of those major thrusts of the excellence movement that could serve to downplay civic learning in favor of masses of chronological history and geography, which might overwhelm teachers or textbook authors whose concern for coverage outruns the *Framework*'s own recommendations for study-in-depth. This tendency is reflected in the opening pages of the *Framework* where its 17 "distinguishing characteristics" are described.

The first nine characteristics have to do with history as the centerpiece of study; history in its geographic setting as the basis of an integrated approach; history as a story well-told, using literature as enrichment along

with biographies, myths, and fairy tales in the early grades; historical events and periods in depth; a chronological and sequential curriculum from K through 12; a multicultural, pluralistic perspective throughout; and an increased attention to world history.

The next five characteristics deal very effectively, but discursively, with matters of ethical thinking, civic virtue and values, constitutional principles, democracy, controversial issues, and the role of religion in history. The final three characteristics have to do with critical thinking, lively teaching methods, and active student participation in school and community service programs. Again, the same general order is followed in the 15 criteria listed at the end of the *Framework* to assist teachers and curriculum committees in evaluating textbooks and curriculum materials for use in the schools. The criterion of dealing with ethical issues is eighth, of civic values and democratic institutions is tenth, and of commitment to civic values (patriotism) is thirteenth.

In general, then, I believe that the ingredients for improved civic learning are present in the 1987 *Framework*. The question, however, is what teachers and students will make of them. Much will depend on the perspectives and theoretical frames of reference that teachers bring to the task. To promote the development of such perspectives is my main reason for writing this book. I believe the 1987 *Framework* splendidly emphasizes the values of diversity, pluralism, and multi-culturalism. Over and over again, it indicates where special attention should be given to women, blacks, American Indians, and other minorities in the United States and around the world. Another real gain, to my mind, is the repeated effort to highlight the attention that should be given to the role of public education in history and in democratic society, a topic seldom dealt with in teaching high school history or social studies.

But, still, I must say that the 1987 *Framework* could have been stronger and more emphatic on what Thomas Bender called the "central institutions of society, of the state and of civic or public culture." It has done exceedingly well in arguing for more attention to social groups and diversity in society. Now, the next step for history teaching, as for history writing, is to reclaim "the public realm, where groups interact to make a national politics and culture, as the central territory of history."

A *Framework* designed to give guidance for the six years from 1987 to 1992 embraces the Bicentennial years from 1987 to the end of 1991. I believe it missed an opportunity to reinforce the "history and civics lesson" that Chief Justice Burger and the U.S. Bicentennial Commission have been urging upon us. I deal with that point in the next chapter, but my general point is made even more timely and urgent by the events of the summer and fall of 1987. The Congressional hearings on the Iran-Contra affair during the summer and the hearings on the appointment of Judge

Robert H. Bork to the Supreme Court in the fall raised once again questions concerning what should be taught in the schools about our common civic values. There is a monumental task ahead to give meaning, life, and vitality to these ideas as students and teachers seek to find their way through the mountains of facts, information, and knowledge projected in even the best of curriculum guidelines.

For more than 200 years the basic values of political democracy have been proclaimed, applauded, and debated. Assertions range from the most eloquent and persuasive statements in the English language to endless pedantic and trite mouthings. Yet, when crises arise or fundamental decisions are made, certain key concepts emerge that lay claim to the beliefs, commitments, loyalties, and actions of American citizens. I believe that the basic ideas or value-oriented claims set forth in the California *Framework* of 1981 could well be used as an intellectual framework for designing civic education programs for the schools. They are familiar but they are fundamental. Too much has been thought and said over too long a period of time to make any claim for their originality. And they are complex; each value often elicits wide differences of interpretation. There is a continuing tension, often overt conflict, between these values of *Unum* and the values of *Pluribus*, but I believe that programs of civic education must, just as American democracy must, try to balance, honor, and promote both.

As a whole, the concepts set forth in the 1981 California *Framework* and in Chapter 4 of this book represent the kinds of civic values that I believe schools should seek to exemplify in their whole operation as well as in their teaching and curriculum. As "values" they are not lists of "competencies" or specific goals of behavior. They are, rather, conceptions of the desirable elements in our political system that could be used as criteria by which particular competencies or specific goals of behaviors may be selected and practiced. To put it another way, I believe that those in charge of designing curriculums in history as well as in the other social studies should re-examine the elements of their programs to determine to what extent they incorporate these values in their textbooks, instructional materials, learning activities, and governance practices.

It will be obvious that these are normative concepts, each with extensive histories of scholarly analysis and controversial interpretation whether in the humanities, the law, or the social sciences. But because they are also the very stuff of practical political life and public affairs, I believe that schools should confront these concepts directly, explicitly, and critically, in ways appropriate to the age and capacity of students. They are not the "new" social science concepts of "role," "status," "stratification," "socialization," "political culture," "decision-making," and the like, as behavioral political scientists or sociologists might prefer. Nor are they couched in the

terms of the personal moral qualities of character (such as persistence, tact, self-reliance, generosity, or hard work) that some parents might prefer. But they do appear in the highest reaches of political discourse and jurisprudence as well as in the ordinary language of governance in schools and communities, in political discussions and campaigns, and in the proceedings of courts, hearings, grievance committees, and policy councils. These concepts require nothing less than a lifetime of consideration if they are to become more than sunshine symbols or crisis crutches.

Such ideas and values as these are not discrete or mutually exclusive; some often conflict with others; and all are subject to many different interpretations, as all really important ideas are. What some may view as corruptions, others may view as true forms. But I believe they exemplify the kinds of ideas that should be uppermost in any efficacious program of civic education. I would not argue for a particular order of priority in pedagogical treatment. Some teachers, some schools, some systems may well start at different points or even with different words for the concepts, depending upon their sense of fitness for the local situation, but it seems to me that a full-fledged acknowledgment of the civic role of education will lead to a consideration of them all--at major points in the school's program--and in relation to each other.

I have no illusions that such a formulation will have universal appeal in the profession or in the public, but I would argue that these concepts more nearly define a revitalized civic education than do the laundry lists of "traits" or "competencies" so often listed by professional educators in curriculum guides. And I believe the proper civic mission of education is to stress those civic values that bind us together in a democratic political community rather than the "traditional moral values" that are mentioned in the public statements of advocates of particular personal life-styles or religious persuasions. The "traditional values" that *schools* should promote are the common *civic* values that underlie our democratic constitutional order. The morality of citizenship should be the central theme.

From the founding of the Republic, civic education has been a mandate for public education; civic education is the main business of public education. History and the humanities are essential to that business. Charles Frankel once described it this way:

> In every generation in which the humanities have shown vitality, they . . . have performed an essential public, civic, educational function: the criticism and reintegration of the ideas and values of cultures dislocated from their traditions and needing a new sense of meaning.[67]

I believe that Frankel's statement about the humanities applies equally to the task that lies before the whole academic community and the educa-

tional profession, namely, to engage in thoroughgoing study of the traditional values that underlie our common civic life; and to reintegrate those ideas and values into a new, defensible, normative vision of American citizenship for the decades that lie beyond the bicentennials of the framing and adoption of the Constitution and Bill of Rights.

This requires the most exhaustive and continuing kind of self-study through professional meetings, commissions, and academic courses; but also a concerted series of discussions, seminars, and national commissions which will enlist the support of those public groups and voluntary organizations with the welfare of public schools at heart. This is not a task for the educational profession to undertake in isolation from the public, but it is one in which the profession and the academic community should take the lead. Many public interest associations are already in place for such collaboration. Two newly-formed coalitions of national organizations seem particularly appropriate: The Council for the Advancement of Citizenship and the Domestic Policy Association.

The time is ripe for renewed efforts along these lines. What is called for is a frankly normative analysis of moral and philosophical assumptions that could become the basis of a common framework of civic ideals and that could bind together the nation's diverse racial, ethnic, religious, political, and economic interests. This formulation of a defensible normative vision of American citizenship could be the basis of a variety of programs of civic education in the coming decades. This is not an appropriate task to leave solely to agencies of government, for fear of political or partisan indoctrination. It is not appropriate to be left to voluntary groups organized to promote special economic or political interests, nor to research think-tanks that favor "value-free" empirical research or that push monolithic ideological views. It should not be left to sectarian religious, ethnic, or social groups, nor to the press, to the media, or to the commentators.

Such groups, of course, will continue making their special claims for particular social, civic, or moral values, as they are, and should be, free to do. But what is needed is a sustained effort by outstanding public leaders, scholars, and teachers in the humanities, in the social sciences, and in the law to state explicitly and persuasively what American citizenship should mean during the coming decades, and what schools, colleges, universities, and teacher eduction institutions can and should be doing about it. This would involve not only the most fundamental consideration concerning the kind of society and world we face in fact, but also the kind of society and world we would like to bring about as the United States enters its third century. Thus far, no major group in the educational reform movement has undertaken this task.

As of this writing, it remains to be seen if any group will do so. The time was especially ripe at the end of 1987. At least three national projects

were being envisioned to take a hard look at the future of the social studies field and history's place in it. As early as 1984 discussions were under way within the counsels of the American Historical Association regarding the establishment of a new National Commission on the Social Studies. In fact, the Council of AHA approved unanimously the appointment of such a commission whose purpose would be "to survey, as did the Committee of Seven, the current situation regarding history in our high schools and proper standards for the training of high school history teachers."[68]

These were the words of the outgoing president of AHA, Arthur S. Link, who had devoted his presidential address to the subject. Thereafter, the AHA was joined by the National Council for the Social Studies, the Organization of American Historians, and the Carnegie Foundation for the Advancement of Teaching in sponsoring the Commission. Three co-chairs were appointed: Link, professor of history at Princeton and editor of the Woodrow Wilson papers; Ernest L. Boyer, president of the Carnegie Foundation; and Donald H. Bragaw, former president of NCSS. By the time of the first meeting of the 40-member Commission in November 1987 it consisted of representatives from the several social sciences as well as history, social studies professionals, and members from government and public education. Some 80 professional and academic organizations had pledged cooperation. Clearly, this was intended to be a fundamental effort to reexamine the entire social studies curriculum in elementary and secondary schools.[69]

Toward the end of 1987 two other projects were announced with apparently somewhat different agendas. Both were to concentrate on the teaching of history in the schools. One was a follow-up of Lynne Cheney's critique of history teaching in her *American Memory*. The National Endowment for the Humanities announced plans to fund a new research center to consider what history should be taught in elementary and secondary schools. In March 1988 the N.E.H. awarded $1.5 million to establish the center at UCLA. Charlotte Crabtree, the director, stated that the California *Framework* of 1987 may become the model for the center's work.[70]

The other project, linked to the Educational Excellence Network, will concentrate on the teaching of history in the K-12 curriculum. The Bradley Commission on History in Schools includes schoolteachers of history as well as such prominent university historians as Gordon Craig of Stanford, Nathan L. Huggins of Harvard, Michael Kammen of Cornell, William E. Leuchtenberg of North Carolina, Leon F. Litwack of Berkeley, William H. McNeill of Chicago, and C. Vann Woodward of Yale. Kenneth T. Jackson of Columbia is chairman of the panel, and Paul A. Gagnon will write the final report. Hazel Whitman Hertzberg of Teachers College, Columbia

University and William H. McNeill were the only persons to be named to both commissions.[71]

How each of these projects will fare in the competition for the attention of teachers, textbook writers and publishers, curriculum planners in the schools, boards of education, and legislatures remains to be seen. Above all, in my view, how will citizenship and civic values fare? Will one or more of these projects try to reinstate the intellectual goals of the Committee of Ten, or the Committee of Seven, or perhaps bring up to speed the conclusions and recommendations of the AHA's Commission on the Social Studies of the 1930s? Will they confront the "public, civic, educational function" of history, the humanities, and the social sciences?

Teaching Civic Values Through History

What does all this say about what history should we teach in the public schools? It calls for greater attention to two kinds of linkages: (1) making more explicit the connection of the past with the present by stressing, even requiring, sustained study of the historical origins and present meaning of such civic ideas as have been cited in the 1981 and 1987 California *Frameworks*, and (2) making more explicit the connection between the historical study of such civic values and the present realities of students' concerns and interests. Both kinds of linkages could be strengthened and enlivened by study of those basic constitutional ideas and principles involved in past and recent Supreme Court cases and in legislative proposals that directly affect the educational policies and activities of students and teachers.

Take, for example, the several contemporary controversies over the separation of church and state. This, one of the oldest and most complex issues, was involved in the very founding of the American colonies and states, in the framing of the federal Constitution, in establishing a common public school system, and in the continuing viability of a pluralist democratic society. Students, teachers, administrators, and politicians are woefully weak in their historical understanding of what constitutional principles and values are at stake in organized prayers, or Bible reading, or the Ten Commandments, or Christmas pageants in public schools or public places. We have had recurring political battles over religious issues ever since the debates over the framing of the First Amendment nearly 200 years ago, but never more rancorous or persistent as in the past few decades when they became directly involved in *educational* policies and practices.

After long Congressional wrangling, the efforts to amend the Constitution to permit organized prayers in the public schools were diverted into passage of the Equal Access Act in August 1984. This requires local public schools to permit student groups to hold discussions (outside of regular

classroom hours) on "religious, political, philosophical, or other matters," if the school receives federal funds and has created a limited open forum for student activities. Since such discussions are to be in student hands, not under the guidance of teachers or public authorities, who will undertake the serious study of the historical origins of the relevant constitutional principles? Will classroom history teaching deal with such issues, or will it avoid them and become even more bland or remote from the practical arenas where civic virtues or civic vices are being molded? Will the teachers of history take seriously Jefferson's hope that history can qualify citizens as "judges of the actions and designs" of their rulers?

The converse of the conflicts over religious instruction in the public schools is the long-running battle over the use of public funds for private and religious schools. This issue goes back at least 50 years, to the *Cochran* case of 1930, and especially to the *Everson* case of 1947. It involves the original meaning of the "establishment" clause of the First Amendment, the meaning of which itself goes back more than 200 years. The contemporary versions have to do with tuition tax credits or vouchers to aid parents to send their children to religious schools. By and large, the Supreme Court has tended to hold to a wavering line against myriad efforts to channel tax funds into private schools. In 1983, however, the Court upheld state tax credits in Minnesota on the grounds that applying them to public as well as to private school expenses would avoid violating the establishment clause. (For detailed examples of historical debates over the establishment clause, see Chapter 2.)

At almost the same time, the Supreme Court held that tax exemption was not appropriate for religious educational institutions that discriminated against black students, even though the administrators of these schools argued that their religious convictions required them to discriminate. Here was a fascinating complex of constitutional issues involving questions of justice, freedom, equality, diversity, and due process, involving both the First and Fourteenth Amendments.

And, of course, the interpretation of the Fourteenth Amendment's equal protection clause has had a tortured history from the early 1950s through the *Brown* case in 1954, the civil rights acts of the 1960s, and right down to the Civil Rights Act of 1984. Even though desegregation mandates requiring busing did not directly affect most American students, affirmative action mandates for equality in women's sports, more flexible admission standards for minorities, and competency tests that allegedly discriminate against minority students and teachers did come close to home for many millions of students. Again, nearly all the civic values and democratic beliefs listed in the California 1981 *Framework* are at stake here. These issues call for much greater historical treatment if wise political judgments are to surmount sheer advocacy for special interests.

The range of contemporary controversies that affect education in one way or another and that should be viewed with greater historical perspective includes: the efforts of certain groups to censor textbooks for classroom use and limit what books should be in the school library; the rights of children of illegal aliens to a public education; creationism versus evolution in science teaching; the constitutionality of the draft registration act and of compulsory attendance laws; state certification of private school teachers; and state regulation of curriculum requirements in private schools. And, even if none of these issues sparks the interest of the students, the question of the privacy of student lockers and purses (suspected by teachers or principals of containing illegal drugs) would certainly lead some students to be interested in their constitutional rights, if not their civic obligations.

And, finally, if the issues of religion and politics as they touch on such matters as abortion and homosexuality are too explosive for the serious, scholarly, classroom study of their legal and constitutional implications, then teachers and students might ponder together the ruling of a federal judge in September 1984 that Brown County (Illinois) High School officials violated the civil rights of a pregnant student by expelling her from the school's chapter of the National Honor Society.[72] What a web of "traditional values" and "educational excellence" *that* situation reveals.

I am, of course, not arguing that U.S. history courses be given over to discussion of the whole range of contemporary issues or current events. Rather, I would argue that there are plenty of current issues that could profitably be approached through fundamental historical study of constitutional principles, especially those that directly affect the rights and obligations of students and teachers under the First, Fifth, and Fourteenth Amendments. And these cannot be adequately understood in isolation from political, social, and cultural history in general.

I am arguing for greater attention to the role of history in developing an intellectual frame of reference whereby students will be better prepared to make the political judgments necessary for preserving and strengthening such civic values as those set forth in the California *Frameworks* and in Chapter 4 hereafter. In this way the teacher of 10th grade World History could anticipate the U.S. History and Government studies lying ahead; the teacher of 11th grade U.S. History could build upon the 10th grade World History and anticipate the Government/Civics course to come; and the 12th grade teacher of Government/Civics could draw upon and deepen the concepts and values studied in the earlier history courses.

The basic idea is to find a way to connect and integrate the social studies as a whole. Such a framework of common civic concepts or themes could provide a coherent bridge among grade levels as well as a meaningful connection among the subject matters of history, the humanities, and the social sciences, which together make up the scholarly foundations for the so-

cial studies. Such a frame of reference could not only provide useful criteria for selecting topics and subject matter to be studied, but also the stress on *civic* values would reaffirm the overall civic mission of public education. Rather than trying to compromise with or bow to the strongest of the conflicting private religious and moral values that are so much on the agenda of particular organized campaigns, teaching in history and the social studies should concentrate on the effort to form the political judgment of the citizenry through the serious study of the common civic values of the democratic constitutional order. This is the modern educational road to civic virtue envisaged by the founders.

But this goal will not be achieved unless students are required throughout the middle and high school years to encounter the basic civic values upon which our democratic constitutional system rests. Sustained study of the idea of citizenship, based upon scholarly knowledge and searching criticism, could provide a perspective and frame of reference by which teachers and curriculum makers could select pertinent material from the almost limitless resources of the humanities and social sciences. From Graeco-Roman times through the modern revolutions in Europe and America to the present-day aspirations and struggles of the Third World, the theme of citizenship--revealing the varying ideas, values, and practices of the past and present and the struggles to expand, limit, or deny it in democratic and non-democratic regimes--could provide a meaningful coherence and integration to the entire social studies curriculum.

Such an outcome will depend not only on what teachers and students in the schools attempt to do but also on the way historians write and teach history. I was enormously heartened by what Carl Degler, Stanford's U.S. historian, was saying to his fellow historians as he concluded his year as president of the American Historical Association in 1986. He argued, somewhat as Thomas Bender had, that the valuable contributions of recent research in social history still need to be related to some central themes or a coherent framework:

> Our ethnic, racial, and religious diversity helps define us as a people, but diversity, by its centrifugal nature, threatens continually to attenuate, even to dissolve, the identity it helped to define. To shape our past around the ways in which we differ from other peoples will assist us in articulating what it means to be an American. Finally, in pursuing our historical identity, we obtain a framework that can encompass and integrate the new knowledge garnered from the explosion of research in the last two decades. This pursuit will gain for us a history that is distinctively American, not simply because it happened to us, but because it did not happen to others.[73]

I could not agree more heartily with his proposal:

> I am recommending that we begin to shape our presentation of American history around the question, "What does it mean to be an American, that is, a citizen of the United States?"[74]

I believe that his view of history would find a particularly hospitable reception among those following the new syllabuses prepared by the New York State Education Department for the social studies courses in grades 7-12. In the very first substantive paragraph of the Introduction, appearing in every syllabus for the six years of social studies, the citizenship theme is the clear, explicit, and overriding goal:

> The principles of a democratic system should serve as organizing ideas for the social studies program and for student learning. The development of civic values consistent with life in a democratic system is an overriding goal of the entire program. The values at the base of our democratic system include justice, a belief in the dignity of the individual, responsibility of the individual to others and to the community, rule by the will of the majority with respect for the rights of the minority, respect for the rights of others, appreciation of the achievements of diverse cultures and individuals and participation off all persons in government. In dealing with the specifics of the syllabus and in planning the curriculum which implements it, the development of these values should be a constant goal.[75]

Not only is this general theme stated for all six years of mandated social studies in the secondary school curriculum, but also each syllabus identifies 15 recurring concepts that can be treated at appropriate points in the outline of contents. At least half of these "Main Ideas" could fairly be called "civic values:"

Citizenship

Diversity

Empathy

Human Rights

Identity

Justice

Political System

Power

The New York State syllabuses are much more detailed and lengthy than the frameworks or guidelines developed in many other state systems of public education. They are the bases upon which the state examination system is administered under the supervision of the Board of Regents. The key concepts are to give continuity to the entire social studies curriculum, which now includes:

Grades 7 and 8 - United States and New York State History

Grades 9 and 10 - Global Studies

Grade 11 - United States History and Government

Grade 12 - Participation in Government
- Economics and Economic Decision Making

Beginning in 1988 the above courses for grades 9 through 12 are required for high school graduation, namely four years of social studies.

There is, of course, a great deal of ongoing debate among educational professionals regarding the role of state authorities in defining the goals of public education, the content of the curriculum, the adoption of textbooks, and the testing of student achievement. But the fact is that state curriculum frameworks are becoming increasingly important and influential as guidelines for local curriculum-makers and for textbook-writers. There are at least 23 "state adoption" states in which textbooks are selected from lists approved at the state level. Among these, California, New York, Texas, Florida, and North Carolina are the most prominent.

Amidst the clamor for reform of education, the development of civic teaching and learning must proceed with utmost care and scholarship in order to take seriously the stated civic goals while avoiding politicization by special interest groups of a public nature as well as aggrandizement by special interest groups within the profession itself.

Chapter 2

Another Clear Mandate: Teach the Constitution

A. Learning from the Bicentennial

At the first meeting of the Commission on the Bicentennial of the United States Constitution in July 1985, Chief Justice Warren E. Burger, Chairman, stated that the occasion should afford an opportunity for "a history and civics lesson for all of us." In its first report to the three branches of the federal government on September 17, 1985, the Commission echoed the Chief Justice's view and stressed the educational purpose and the spirit of inquiry it would encourage for the three years of celebration from 1987 through 1989:[1]

> The Commission regards the approaching commemoration as an historic opportunity for all Americans to learn about and recall the achievements of our Founders and the knowledge and experience that inspired them, the nature of the government they established, its origins, its character, and its ends, and the rights and privileges of citizenship, as well as its attendant responsibilities.

Among the means for achieving this civic education, the Commission gave special place to the study of history:

> Studying history will enrich our understanding of the present and of the future by illuminating the reasons for failures and successes of the past. The history of the United States of America relates directly to the most precious human condition--freedom to think, speak, write, and create, and freedom to possess diverse political, social, and religious views . . . . As we look toward the future, it is particularly important that we ask what it was about our Founders' thinking and the culture, political system, and governmental structure that emerged from the Constitution, that produced two centuries of liberty under law.
>
> While individuals may differ over answers to that critical question, it is safe to say that if we neglect to think about it, the probability of our constitutional freedoms being eroded or toppled is increased.
>
> Numerous questions arise from time to time as to what policies our republic should fashion and what amendments to the Constitution, if any, should be added . . . . Because education of the public about the Founding period is uncommon, however, it is im-

> perative that the Commission work--in conjunction with other institutions, including the media to fill the educational gap that exists with respect to the origins of the American constitutional system.

The Commission left no doubt that it would be interested to help "close the educational gap" through schools and colleges as well as through the media and other private and public agencies. In an interview reported in *The New York Times Magazine* for September 22, 1985, the Chief Justice was quoted by Jane Nevins as making the point explicit: "This is an opportunity to give ourselves a history and civics lesson that hasn't been very well put across in the public education system . . . ."

A year later, in September 1986, the Commission reaffirmed the educational purpose of the Bicentennial commemoration when it reported on the first full year of the activities and projects it had sponsored or officially recognized. Chief Justice Burger said it again in his letters of transmittal to the President, the Senate, the House of Representatives, and the Judicial Conference of the United States:

> From the outset we have recognized that this Commission's function, which covers three years, is very different from the planning for the 1976 celebration and the Statue of Liberty unveiling. We must try to dramatize the great events leading up to the Philadelphia convention, the difficult task of securing ratification and what all this has meant to secure freedom and opportunity for us now and for generations to come. Although the Bill of Rights was not adopted until 1791, we are treating it as part of the Constitution, as, of course, it is. Essentially we have defined our objectives as "a history and civics lesson for all of us."[2]

I cannot possibly mention here the very large number or variety of projects that were initiated even before the Bicentennial Commission got under way or after its impetus began to take effect. My special interest is in those efforts that may bear some long-term effect on student understanding through the school curriculum. One of the earliest and most important of these was Project '87, sponsored jointly by the American Historical Association and the American Political Science Association. The first stage of its work was to hold several conferences and award some 50 grants and fellowships for scholarly research on various aspects of the Constitution. Many of these papers have appeared in the Project's scholarly quarterly called *this Constitution*. The second stage dealing with teaching the Constitution in schools and colleges began in 1980. The first publication, on teaching about the Constitution in the secondary schools, appeared in 1981, and subsequently a volume containing 64 *Lessons on the Constitution* designed to be supplementary material for high school courses in American history, government, and civics was prepared in 1983 and published in 1985.[3]

Since 1985 a veritable bonanza of publications has appeared, many aimed at improving teaching and learning about the Constitution in schools.[4] In addition, an increasing number of organizations drew up plans for conferences, workshops, forums, and the development of exhibits and educational materials dealing with the Constitution. Among those that promised to have direct impact on the school curriculum were those sponsored by the National Endowment for the Humanities, the National Council for the Social Studies, and the Bicentennial Commission itself. (For additional scholarly and professional publications, see Chapters 3 and 4.)

Perhaps the most extensive, long-term, and creative project conducted in the schools, one which is officially cosponsored by the Bicentennial Commission, is the National Bicentennial Competition on the Constitution and Bill of Rights. It was developed and is to be administered by the Center for Civic Education for the five-year period from 1987 through 1991. It has several unique characteristics:

> The competition will be between school classes rather than between individual students.
>
> The curriculum will emphasize the historical ideas and political concepts of constitutional government that the founders brought to the Constitutional Convention.
>
> Special attention will be given to the Bill of Rights and the changes in constitutional thought that followed the framing and ratification.
>
> A short but coherent text consisting of 31 lessons has been designed and field tested for a six-week unit adaptable for use in courses in U.S. history, government, or civics.
>
> The competition will be held in every congressional district in the country.
>
> Each year the program will involve classes in one or more school systems in each of the congressional districts in the nation in local, intermediate, and state-level competitions. At the end of each year, a national competition will be held in Washington, D.C., for winning classes from each state participating in the program.
>
> Classes will prepare for the competition through the use of specially prepared study units on the Constitution and Bill of Rights designed to complement and be integrated into the required curricula in their schools at the upper elementary, middle, and secondary levels. The general goals of the units are to foster civic competence and civic responsibility among students through the development of a fundamental understanding of the Constitution

and Bill of Rights and of the principles and values they embody, and an understanding of the rights and responsibilities of citizens in our constitutional democracy.

The content of the instructional and testing programs is organized to focus upon:

the historical antecedents to the Constitution and Bill of Rights,

the founding period,

the Constitution in the 19th century, and

the Constitution in the 20th century.

At levels appropriate for student capacities, the units will include a study of the Constitution, the Bill of Rights, *The Federalist Papers*, and other basic documents and scholarly works related to these periods of our constitutional history.

After completing their study, classes will compete as teams in demonstrating their knowledge and understanding of the Constitution. Each class will complete a qualifying multiple-choice test and then participate in a mock congressional hearing on a fundamental constitutional issue. The winning class at the congressional level will go on to the next round of the competition.

The paper and pencil multiple-choice test is designed to measure students' knowledge of significant persons, events, concepts, principles, values, and issues related to the Constitution; and capacity to identify and apply constitutional principles in specific situations.

Since participating classes will compete against each other as teams, the average score of a class on this test will be used rather than the scores of individual participants in the class. Thus, students in each class will be encouraged to study and work together so all can do their best on the test in order to reach the qualifying score necessary to participate in the hearing competition.

The congressional hearing, the second part of the competition, will be held before a panel of experts on the Constitution, drawn from the community. This hearing will be designed to assess students' capacities to develop, support, and evaluate positions on enduring constitutional issues.

Each class will be divided into six groups, each group to be responsible for responding to questions on one of the six units of

the curriculum. The scores received by the groups on these presentations will be added together to arrive at a class total; the highest class total will determine the winning class for that round.

In successive rounds, entire classes will continue to participate as teams in the competition. The winning class in each congressional district will participate in a state-level hearing; and the winning class in each state will go on to a final national competition to be held in Washington each year of the bicentennial period.

The competition will be administered by the Center for Civic Education with the assistance of a National Bicentennial Competition Advisory Committee composed of representatives of the three branches of the federal government, noted constitutional scholars, and representatives of leading public and private sector organizations.

At the state level, the competitions will be conducted with the assistance of State Bicentennial Competition Committees appointed by each state's members of the United States Senate. At the local level within each state, the competitions will be conducted with the assistance of Congressional District Bicentennial Competition Committees selected from among their constituents by members of the United States House of Representatives.[5]

At the outset, I want to make it emphatically clear that I support and applaud the Bicentennial Commission's intention to make the Bicentennial a truly educational commemoration and a means to revitalize educational programs on the Constitution in our nation's schools and colleges. Indeed, I have written this book in the hope that it might contribute to that purpose. As early as 1974 I had urged (without much success) that the educational function be paramount in the Bicentennial of the American Revolution in 1976, and I have been urging this view of the Bicentennial of the Constitution for the decade since then.[6]

But in the recent wave of enthusiasm for making the Bicentennial "a history and civics lesson for all of us," I wish to make two important points that we should keep in mind. First, we have a long and mottled history of enthusiasm for "teaching the Constitution," and we should learn what we can from that history. Second, we have had differences of opinion and deep-seated controversies about the meaning of the Constitution throughout the more than 200 years since its origin and formation: from the Federalists versus the Anti-Federalists, the "Rats" (for ratification) versus the "Anti-Rats" (against ratification), and strict constructionists versus broad constructionists to judicial restraint versus judicial activism and original intent versus principled interpretation. So how do we deal with those conflicting views in the schools? Whose Constitution shall we teach?

B. How We Have Taught the Constitution in the Past

In general, the urge to promote the study of the Constitution in American schools arises when individuals or groups believe that such instruction will promote national unity, or tend to prevent some perceived threat to the stability of the society at large, or be of benefit to their own special interests. The tendency throughout much of our history could be summed up as follows: If the Supreme Court was supporting a view of the Constitution which favored "us," then ask the schools to teach the Constitution; if it was not, then teach something else until the Court's membership or decisions come our way. Seldom, until recent times, did major groups in American society want the schools to deal with controversial meanings or disputed interpretations of the Constitution.

"The Constitution Enthroned" (1790s-1890s)

For the first 100 years of the Republic, the Constitution played the most important part in virtually all texts written on civil government for the schools. They reflected a tone of respect and even adulation for the document as the symbol of national legitimacy to which all citizens owed allegiance, loyalty, and devotion. With the removal of the British crown as the symbol of legitimate sovereignty, the Constitution came to play a comparable role in establishing a common symbol of identity for the new Republic. I believe it is fair to say that this was a common theme among the vast majority of those early advocates who argued for teaching the Constitution in the schools.

This first blush of enthusiasm for teaching the Constitution as early as the 1790s is illustrated by the two winners of the American Philosophical Society's prize essay contest on the best system of liberal education adapted to the genius of the new republic. Both were generally Jeffersonian in their political orientation. Samuel Harrison Smith argued that students in his proposed system of secondary schools should have it as their duty "to *commit to memory* and frequently to repeat the Constitution and the fundamental laws of the United States." Samuel Knox referred repeatedly in his essay to "our happy Constitution," which should form an integral part of "a well-digested, concise *moral catechism*." This catechism would have three parts: natural theology, the first principles of ethics, and "the principles of jurisprudence; the nature of civil government, containing a short historical view of the rise and progress of its various species and particularly that of the federal government of these states."[7]

Then, when the textbook writers came along, they seemed to have a particular view of the Constitution, which they believed should be enthroned in the teachings of the schools. For example, the first textbook on civil government to be published in the United States (1796) was avowedly written by a staunch New England Federalist in order "to stem the rising

tide of the Jeffersonian democracy" by instructing youth in the genuinely sound principles of the Constitution.[8] This "Plain Political Catechism" by Elhanan Winchester may not have been widely used in the schools, but there is no doubt that Noah Webster's *American Spelling Book* was widely used. The edition of 1798 contained not only a "Moral Catechism" on such virtues as humility, mercy, justice, truth, charity, and frugality but also a "Federal Catechism" containing a short explanation of the Constitution and the principles of government. In this catechism Webster makes a good deal of the defects of democracy in contrast to the advantages of a representative republic.[9]

These were good Federalist doctrines with which to combat some of the tenets of Jefferson's "creed of our political faith, the text of civic instruction," which he stated in his inaugural address of 1801:

> . . . the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti republican tendencies; the preservation of the General government in its whole constitutional vigor . . . ; a jealous care of the right of election by the people . . . ; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force . . . .[10]

Whether the differences of interpretation of the Constitution between the broad construction of Federalists and the strict construction of Republicans ever came to the fore in school instruction about the Constitution may be doubtful, especially in view of their "catechetical" approach in which set questions and answers were memorized and whose prime purpose was to inculcate the "truth" without question or debate.

A later and more common approach, presumably approved by the teachers as well as the textbook writers, was a "clause by clause" method of explication of the wording of the several sections of the Constitution. This obviously emphasized the formal structure of the three branches of the federal government as contained in the unamended Constitution. Relatively great attention was paid to the separation of powers and checks and balances with relatively little attention to the Bill of Rights. Virtually no attempt was made to criticize or explain changes in interpretation over time or deal with the fundamental controversies that so often threatened to tear the nation apart: from the growing debate and conflict over the limits of federal power and states rights to the Kentucky and Virginia Resolutions and on to the extension of slavery to the West, *Dred Scott*, the Civil War itself, and Reconstruction.

Little controversial teaching about the Constitution could be found in the textbooks, although the onset of the Civil War did bring some considerable

attention to the preserving of the Union. Apparently the vast majority of Americans were willing for the schools to teach the wording of the Constitution and the clause-by-clause description of the formal structure of the federal government, so long as the life and death struggles over its practical application to national politics and the national economy were not obviously portrayed. A certain amount of information and unswerving loyalty to the Constitution, no matter what diverse opinions might be held about its meaning, seemed to be the major expectations of most citizens, whether early Federalist or Republican, interim Whig, or Democrat or later Republican or Democrat.

Meanwhile, the number of textbooks on civil government and the Constitution continued to grow. The vast majority were written from the Federalist or a Unionist point of view, several were written in the 1830s to counteract a tide of individualism and states' rights emerging from Jacksonian democracy, and some in the 1840s and 1850s stressed attachment to the Union in the face of Southern secessionist arguments prior to the Civil War.

The upshot is that despite the continuing political debates and even warfare over the nature of the Union and the Constitution, controversy was relatively little touched in classroom teaching about the Constitution at least on the surface. Americans apparently wanted the schools to prepare citizens in general but not to indoctrinate students in the tenets of any particular political party, faction, or association. The preeminent school reformer of the nineteenth century, Horace Mann, epitomized this view by arguing that the constitutional structure and powers of government be taught, but teachers should avoid all controversial views.

None was more eloquent than Horace Mann on what he candidly called "political education." Summing up his conclusions on twelve years as secretary of the State Board of Education in Massachusetts in 1848, Mann began with the assumptions of the founders that citizens of a Republic must "understand something of the true nature of the government under which they live." He spelled out the civic program in terms that will sound similar to all teachers of civics since that time:

> . . . the constitution of the United States, and of our own State, should be made a study of our Public Schools. The partition of the powers of government into the three co-ordinate branches--legislative, judicial, and executive--with the duties appropriately devolving upon each; the mode of electing or of appointing all officers, with the reason on which it was founded; and, especially, the duty of every citizen, in a government of laws, to appeal to the courts for redress, in all cases of alleged wrong, instead of undertaking to vindicate his own rights by his own arm; and, in a government where the people are the acknowledged sources of

power, the duty of changing laws and rulers by an appeal to the ballot, and not by rebellion, should be taught to all the children until they are fully understood.[11]

But the difference between the ideal structure of the political community and the actual operation of the system began to be apparent even to the educators. Caught in the swirl of contesting forces in Massachusetts occasioned by the immigration of Irish and Germans of Roman Catholic faith and by the changes in urban life attendant upon the industrial factory system, Mann knew all too well that "if the tempest of political strife were to be let loose upon our Common Schools, they would be overwhelmed with sudden ruin." He recognized that many would object to any study of political matters in the schools because the Constitution was subject to different readings. He saw the dangers of political partisanship in the appointment of teachers on the basis of their political fitness in the eyes of the local school committee or the majority in the community:

> Who shall moderate the fury of these conflicting elements, when they rage against each other; and who shall save the dearest interests of the children from being consumed in the fierce combustion? If parents find that their children are indoctrinated into what they call political heresies, will they not withdraw them from the school; and, if they withdraw them from the school, will they not resist all appropriations to support a school from which they derive no benefit?[12]

Mann could not admit that the public schools should avoid political education altogether, nor could he risk the destruction of the public schools by urging them to become "theatres for party politics." His solution was similar to that which he proposed for religious controversies: the schools should teach the common elements that all agreed to, but skip over the controversial:

> Surely, between these extremes, there must be a medium not difficult to be found. And is not this the middle course, which all sensible and judicious men, all patriots, and all genuine republicans, must approve?--namely, that those articles in the creed of republicanism, which are accepted by all, believed in by all, and which form the common basis of our political faith, shall be taught to all. But when the teacher, in the course of his lessons or lectures on the fundamental law, arrives at a controverted text, he is either to read it without comment or remark; or, at most, he is only to say that the passage is the subject of disputation, and that the schoolroom is neither the tribunal to adjudicate, nor the forum to discuss it.

> Such being the rule established by common consent, and such the practice, observed with fidelity under it, it will come to be universally understood, that political proselytism is no function of the school; but that all indoctrination into matters of controversy between hostile political parties is to be elsewhere sought for, and elsewhere imparted. Thus, may all the children of the Commonwealth receive instruction in the great essentials of political knowledge,--in those elementary ideas without which they will never be able to investigate more recondite and debatable questions.[13]

In attempting to stress the transcendant values of the political community, Mann would pass over controversial issues about the constitutional order and omit critical opinions about the actual operation of the system. Political knowledge should concentrate on the formal structure of governmental institutions, but the skills of participation should be delegated, along with the controversial, to the non-school agencies of party, press, and caucus of adults.

Mann was so intent upon getting common schools established for an ever wider range of the potential school population that he would not risk failure of the common school idea in order to bring political controversy into the schools. Thus it came about that the emerging public schools were largely satisfied with civic programs that initiated the poor, the foreigner, and the working class children into the political community by literacy in English, didactic moral injunctions, patriotic readers and histories, and lessons that stressed recitations of the structural forms of the constitutional order. But Mann's emphasis upon a "common core of civic values", taught without mention of controversial issues, had its problems then, just as it does today.

The Constitution Diminished (1890s-1920s)

Toward the end of the 19th century and in the opening decades of the 20th century the expectations for the teaching of the Constitution in schools were increasingly influenced by professional and academic organizations whose committee reports helped to shape the textbooks and the pedagogical concerns of the schools. Academically-minded educators tended to dominate the secondary school curriculum in the 1880s and 1890s. As described in Chapter 1, the effort to expand and stiffen the study of history reduced the emphasis on civil government and explicit study of the Constitution itself.[14]

Citizenship training, we recall, was the original purpose for the study of civil government and especially of the Constitution. But, now, the claims upon the curriculum being made by the "new" and more "modern" studies, such as history and the social sciences, not to speak of practical

vocational studies, led to a squeeze that in effect was going to make it harder and harder for explicit and formal study of the Constitution to maintain itself.

The pressures from outside as well as within the academic profession were building up to give separate and special attention to the study of government apart from history, but these pressures did not necessarily result in more explicit attention to the Constitution despite the upsurge in study of civil government in the early 1900's being promoted by the new social science disciplines of political science, economics, and sociology.

Soon after it was organized in 1903 the American Political Science Association became interested in the teaching of political science in lower schools. A report of 1905 gave details on what 238 students in ten universities had learned in high school about government. Based on a scale of 100 the students made the following average scores on these test items:

> Explain how members of Congress are chosen and state what you know about their terms, qualifications, and compensation. 12% correct.
>
> Write a brief account of the federal courts. 2% correct.
>
> Describe clearly the process by which the constitution of the United States may be amended. How may it be interpreted? 5% correct.
>
> Outline the government of a county in your state. 9% correct. What is meant by the New England plan of township government? 6% correct.[15]

These "startling" and "shocking" results (which ought to make the results of recent National Assessment tests sound a little better) prompted the American Political Science Association to appoint a Committee of Five on Instruction in American Government in Secondary Schools. Its report of 1908 argued for formal study of government in separate half-year courses in both the 8th and the 12th grade: With regard to secondary school textbooks, the recommendations seemed to take aim at earlier texts on civil government as well as at the historians' Committee of Seven:

1. Avoid the book that consists of clauses of the Constitution with comments thereon.

2. Avoid the book that is in large part historical or an attempt to correlate history and government in one course.

3. Avoid the book that gives the larger portion of its space to the national government and relegates the State government

with its rural and urban sub-divisions to a few general chapters.[16]

These were exactly the recommendations that dozens of textbooks on community civics began to follow. Furthermore, a Committee on Instruction of APSA reporting in 1916 continued to argue that the standard courses on civil government should be shaken up. Instead of starting with or emphasizing the study of the U.S. Constitution, giving a description of the formal and structural organization of government, and then proceeding to a similar study of state constitutions and governments, the procedure should be reversed. The committee endorsed the study of "community civics" on the assumption that political affairs nearest to home were the most important and should be considered first.

And, furthermore, the aim of civic instruction was not to study abstract theories or the machinery of government, but to enable pupils to promote community welfare and recognize their personal responsibility through civic action.[17] Of course, the committee admitted, attention must be given in the high school to government organization, the separation of powers, the Congress, and the Executive Department, but the main goal is to relate these to the functions of state and local as well as the national government. Study of government should be functional, not formal; and it should not be left to historians or the teaching of history.

The committee was much impressed by a questionnaire survey conducted by the U.S. Commissioner of Education, which showed that most teachers of civics gave at least half their time to the national government, largely because the government texts did this. But most teachers believed that the texts gave too much time to the formal study of the national government. The teachers seemed to want more practical and local materials.

As might be expected, the committee set forth strong claims for more separate and explicit courses in government. For the junior high school this should be a course in community civics stressing community welfare: health, protection of life and property, recreation, education, beauty, communication, transportation, migration, wealth, charity, and correction. For the high school there should be a full year course in the social sciences (exclusive of history) and at least half of this should be devoted to civil government with more emphasis on local affairs. Thus, the academic disciplines of history and political science were themselves tending to diminish study of the Constitution in favor of other topics. Their views heavily influenced those of professional educators at the time.

Under the auspices of the NEA's Commission on the Reorganization of Secondary Education (whose final report, *Cardinal Principles of Secondary Education* was published in 1918), a Committee on Social Studies was at work from 1913 to 1916 preparing its report for the overall Commission.

The current ideas of Progressive reform were clearly evident. In a preliminary statement in 1913 the chairman of the committee, Thomas Jesse Jones, a sociologist, revealed the intent to make civics much more than a study of government and of the Constitution:

> Good citizenship should be the aim of social studies in the high school . . . . the old civics, almost exclusively a study of Government machinery, must give way to the new civics, a study of all manner of social efforts to improve mankind. It is not so important that the pupil know how the president is elected as that he shall understand the duties of the health officer in his community. The time formerly spent in the effort to understand the process of passing a law over the President's veto is now to be more profitably used in the observation of the vocational resources of the community. In line with this emphasis the committee recommends that social studies in the high school shall include such topics as the following: Community health, housing and homes, public recreation, good roads, community education, poverty and the care of the poor, crime and reform, family income, savings banks and life insurance, human rights versus property rights, impulsive action of mobs, the selfish conservatism of tradition, and public utilities.[18]

The final, over-all Commission Report on the *Cardinal Principles* of 1918 tended to reduce the political concerns of civic education in favor of social and economic and practical personal problems. Note the withdrawal from "Constitutional questions" in the pursuit of good citizenship:

> Civics should concern itself less with constitutional questions and remote governmental functions and should direct attention to social agencies close at hand and to the informal activities of daily life that regard and seek the common good. Such agencies as child welfare organizations and consumers' leagues afford specific opportunities for the expression of civic qualities by the older pupils.[19]

Indeed, if the Constitution was to continue to be interpreted by the Supreme Court as favoring corporate property interests, "separate but equal" school systems, and injunctions to prevent strikes by labor unions, while prohibiting national child labor legislation, no wonder that the Progressive movement seemed inclined to downgrade such teachings about the Constitution and turn to social and political reform movements at the state and local levels. Progressive politicians, progressive educators, and political scientists might agree that good citizenship should concentrate on local social problems, but they did not reckon with the onset of World War I and its aftermath.

"The Reactionary Impulse" (1920s)

Robert H. Wiebe, professor of history at Northwestern, uses a telling phrase to describe the politics of 1920-1924. He refers to the period as "The Reactionary Impulse" when "a host of private citizens and public officials set out to eliminate organized radicalism in the name of 100 percent Americanism."[20] The "Great Red Scare" not only applied to Communists, Bolshevists, and Socialists but foreigners, immigrants, and aliens who had been coming by the millions from eastern and southern Europe and thus appeared to be double threats to the image of Protestant Anglo Saxon native Americans. The nativist movements infiltrated all sorts of patriotic, fraternal, social, business, and professional organizations, symbolized at its most extreme by the Ku Klux Klan and culminating in the National Origins Act of Congress in 1924, clamping quotas upon further immigration from eastern and southern Europe and Asia.

The fears and frustrations of anti-radical and anti-foreign movements had, of course, been fed by the fears and anxieties and losses of World War I with its demands for outward as well as inner loyalty and patriotism and sacrifice. It was in this setting of the post-war period that a massive movement to require instruction about the Constitution in the nation's schools and to do it by the passage of state laws achieved remarkable success. By 1923 23 states had been persuaded to pass or reemphasize such laws, and by 1931 43 states had done so (all except Connecticut, Maryland, Mississippi, Montana, and Wisconsin).

The two most influential groups in achieving this remarkable legislative sweep were the National Security League and the American Bar Association working cooperatively. The National Security League was formed in 1914 to awaken America to the dangers of autocracy and the threat of the Central Powers to democracy in the United States as well as in the European West. Once the War was won, the National Security League turned from fighting pacifists and awakening a sense of martial patriotism to promoting citizenship education in the schools, based on combating radicalism and especially on political campaigns to persuade state legislatures to require teaching about the Constitution. The League drew up two drafts of a legislative bill upon which more than 20 states modelled their bills very closely.

Until around 1928 the League's Committee on Constitutional Instruction continued to lobby successfully for such legislation. The House of Representatives responded by passing a resolution in 1925 calling upon all educational institutions in the nation to offer a course on the Constitution as a part of their regular curriculum. No penalty ever seemed to have been inflicted for failure to apply the legislative mandates. But the fact remains that most of these statutes as amended are still on the statute books. The 1920s were the formative decade in widespread social expec-

tations that the Constitution should be taught explicitly with the intention of promoting a common loyalty, a common patriotism, and a common Americanism among all segments of the school-going population.

Perhaps even more influential in promoting study about the Constitution in schools was the American Bar Association. Although not primarily a professional patriotic organization, the ABA responded in the early 1920s to some of the same calls for the Constitution to become a bulwark against radicalism and for Americanization of immigrants. If anything, it was even more explicit about the necessity for Constitution-teaching to be a fundamental support for protecting the values of private property against Progressive and labor and populist attacks as well as against socialism and communism.

The ABA's "expectations" were very high and very explicit; they included monitoring what schools were doing and outlining the content of courses and of texts for various grade levels. In general, its special Committee on American Citizenship wanted the texts to revert to the style of detailed commentaries of earlier days and to be written by authors thoroughly versed in constitutional law. By this the Committee clearly meant to approve the Supreme Court's defense of corporate and private property rights.[21]

The Liberal Impulse (1930s-1960s)

By the end of the 1920s and the opening of the New Deal the climate of opinion in politics and education shifted markedly away from the excesses of reactionary eagle-screaming of the early 1920s. Besides, the legislative mandates to teach the Constitution had virtually covered the country. But the tone and temper of many educational leaders began to shift to other more pressing social issues. Never acceding very willingly to the idea that legislatures should control the curriculum of school or college, many educators looked with skepticism on the intentions and motivations of most of the patriotic organizations that sought to legislate teaching of the Constitution.

A generally liberal and progressive view tended to permeate the writings of one of the most extensive and elaborate professional studies of the school curriculum ever undertaken: the Commission on the Social Studies of the American Historical Association supported from 1929 to 1934 by the Carnegie Corporation. In view of the reactionary campaigns of the 1920s, the depression, and the Supreme Court's decisions striking down so many New Deal measures, it is no wonder that the Commission's recommendations do not say very much explicitly about teaching the Constitution in the schools. This was precisely the period when the "activist laissez-faire" Court (in Archibald Cox's terms) was reaching its "nay-saying" peak.

Shortly thereafter, the Court began to shift its preoccupation with the relation of government to the economy towards individual rights.[22]

By the end of the 1930s, however, a few professionals in law and education began to look upon the Bill of Rights in a new light as new war clouds gathered in Europe and vigilantism and invasions of civil liberties escalated under the stoking of the House Un-American Activities Committee from 1938 onward. As if to make amends for its stance in the 1920s, the American Bar Association established a Special Committee on the Bill of Rights in 1938. The new president, Frank J. Hogan, argued that the ABA had long rendered great public service by defending institutions, laws, and ideals important under a free government, but it was now time that the Association become vigilant in the defense of the rights and liberties of individuals. The Special Committee filed a brief of *amicus curiae* in the *Gobitis* flag salute case in 1940, which it lost, but did so again in the *Barnette* case in 1943, which reversed *Gobitis*. But World War II intervened, and an impetus that might have turned to the schools for teaching the Constitution with emphasis upon the Bill of Rights was long delayed.

In the 1940s and 1950s both a revival of the reactionary impulses and a renewed liberal impulse gained strength. The story, of course, cannot be repeated here. The American Legion, the Hearst papers, and many other patriotic groups hounded Harold Rugg's social studies texts out of the schools; loyalty oath laws for teachers were passed in 30 states by 1952; and the Feinberg Act to ferret Communists out of the schools in New York was passed in 1948, followed by a half a decade of McCarthyism. On the other side, the Supreme Court began a new interpretation of the First Amendment on religion in the schools (*Everson* in 1947 and *McCollum* in 1948) and a tentative approach to desegregation under the Fourteenth Amendment (in *Sweatt* and *McLaurin* in 1950), which culminated in *Brown* in 1954 after Earl Warren became Chief Justice. And President Truman's Commission on Civil Rights forecast in 1947 much of what was to come later.

The upshot of all this is that a few educators' voices began to be raised in favor of teaching about the Constitution in the schools with special emphasis upon the Bill of Rights. For example, the Citizenship Education Project at Teachers College documented from the Constitution and the law in great detail the premises of liberty. That was a most useful undertaking making available solid political knowledge and reversing the usual subordination of the political so common in other approaches to civic education.

The Bill of Rights Resurgent (1960s-1980s)

Within the scope of this short historical perspective I cannot possibly deal with the decades of the 1960s and 1970s in any detail. One thing,

however, seems clear. Constitutional issues, conflicts, and controversies cropped up recurrently and aggressively in almost all aspects of public life and in many reaches of private life. The Supreme Court and the federal courts seemed to be hearing and deciding a constant stream of cases dealing with individual rights and civil liberties. Indeed, the Watergate confrontation and Richard Nixon's resignation revealed a genuine constitutional crisis over the "separation of powers" compared with which discussion of this topic in earlier civics textbooks did indeed seem bland and dull. Similar disparities surfaced during the Iran-Contra affair in 1986-1987.

Through most of the period liberal activists made it clear that they "expected" the Constitution to be interpreted to support racial desegregation in the schools and busing if necessary, affirmative action on behalf of minorities and women, protection of individual diversity in belief and lifestyle, and freedom of teaching and learning on matters of religion and science and politics. Towards the end of the period the power of conservative "re-activists" grew ever more evident in their demands for reassessment and reversal of several decades of Supreme Court interpretations of the Constitution and Bill of Rights. They would thus prohibit racial desegregation by "forced" busing, permit teaching of religion and offering of prayers in the public schools, permit or even require the study of creationism along with evolution, and provide public funds for private religious schools through tax credits or vouchers. There were resurgent calls for constitutional amendments to turn the tide of judicial interpretations on these and other matters, or for legislative action by Congress to remove the courts from ruling on such issues, or indeed for the convening of a new constitutional convention.

In all these recurring political conflicts one of the most salient points is that many of the recent constitutional controversies have to do directly with educational matters and with the public schools. They not only range across such issues as those just mentioned, but also children's and students' rights in relation to parents' rights, teachers' rights, administrators' rights and responsibilities, the relations of the sexes inside and outside of school, censorship or monitoring of books and school materials, criminal and civic justice for youth, the draft for men and women, and on and on. Whatever else may be said about the study of constitutional issues from the 1960s to the 1980s they needed no longer to be looked upon as dull and formalistic nor remote from or irrelevant to the daily life of schools, teachers, and students. It was in this overall context that the impulse to stress civil liberties and civil rights as the essential core of teaching about the Constitution was developing.

By the end of the 1960s the public expectations for redoubled efforts to stress constitutional concepts and values in school curriculums included not only the academic world of deans and professors of law, education, and

the social sciences but also the practical world of professional lawyers, judges, justice agencies, school systems, and such government agencies as the U.S. Office of Education, Law Enforcement Assistance Administration, and Office of Juvenile Justice and Delinquency Prevention in the Department of Justice. Especially active have been bar associations, local, state, and national. The State Bar of California, established the Law in a Free Society Project in 1969, and the American Bar Association established its Special Committee on Youth Education for Citizenship in 1971 while Leon Jaworski was president. The tone and outlook of the ABA's leadership in the 1970s were dramatically different from those of its efforts in the 1920s. "Law-related education" mushroomed throughout the United States. While it is not confined to teaching about the Constitution, no other movement in social studies has given as much explicit attention to the rights and liberties as well as to the obligations and responsibilities of citizenship as they relate to constitutional concepts and meanings.

Even though social studies "innovation" was being dominated by the curriculum projects of the "New Social Studies" (inquiry learning, decision-making, the structure of the disciplines, etc.), the impulse toward interest in civil liberties and civil rights as the essential core of teaching about the Constitution was growing. A full story would include during the late 1950s the role of the Fund for the Republic (a spin-off from the Ford Foundation), the Carrie Chapman Catt Fund of the League of Women Voters, and the Civil Liberties Educational Foundation, which produced a report from a 1962 Williamstown Workshop for high school teachers conducted in cooperation with the National Council for the Social Studies.

In 1963 a national program for improving teaching about the Bill of Rights was launched at the NCSS convention by a keynote speech by Justice William J. Brennan, Jr., followed by a seminar at Airlie House attended by Justices Brennan and William O. Douglas and a notable list of judges, lawyers, educators, and public persons of a generally liberal persuasion. The National Assembly on Teaching the Bill of Rights grew out of the cooperation of the Association of American Law Schools, the American Political Science Association, and the National Council for the Social Studies. It produced materials, conducted seminars, and held training sessions for teachers. The Center for Research and Education in American Liberties at Columbia University and Teachers College was a direct outgrowth of the National Assembly.

A number of other significant enterprises developed in the mid-1960s, including a Seminar on School Curricula for Instruction in the Bill of Rights at Boulder, Colorado; action by the California State Board of Education to promote critical study of the Constitution and Bill of Rights in the public schools; creation of the Constitutional Rights Foundation in Los Angeles; city school system projects in Chicago, Detroit, St.Louis, New York City,

and elsewhere; and university-based projects at Tufts, UCLA, Syracuse, Stanford, Columbia, Georgetown, and elsewhere.

Nothing could better illustrate the differences between the reactionary impulse of the 1920s and the liberal impulse of the Bill of Rights movement of the 1960s and 1970s than the statement approved by the California State Board of Education in 1963:

> California public schools are to instruct in the principles of a free government and lead students to a true comprehension of the rights and duties, and dignity of American citizenship. . .

So far this could be the 1840s of Horace Mann or the 1920s of 43 state laws, but then the resolution went on:

> We believe that teaching in this field, no matter how controversial the issue, should be conducted within the framework of free discussion. Not only the history of the Bill of Rights should be taught, but contemporary issues it raises, such as the debate over separation of church and state embodied in the First Amendment, and the privilege against self incrimination as provided in the Fifth Amendment, should be discussed. Now is the time to help our young people to become aware of the risks, the privileges, and the personal demands of freedom.
>
> We urge all school superintendents to give this subject the highest priority. We hope that the very conduct of the classes studying the Bill of Rights will reflect its spirit and be a demonstration of civil rights in action.[23]

I would not hazard to estimate how well the school superintendents or teachers or the parents of California carried out this resolution of 1963. But I believe that it well states the liberal impulse of the law-related education movement of the past two decades. There was a significant follow-up in the publication by the State Department of Education of a source book for teachers on The Bill of Rights in 1967, produced by an excellent project staff and a notable advisory panel of lawyers, law professors, and educators and supported by a grant from the newly formed Constitutional Rights Foundation.

To be sure, the conservative and reactionary movements have by no means disappeared. The power of the New Right in politics and in religious fundamentalism make it clear that in the 1980s there are still controversial and fundamentally different conceptions of constitutional rights and liberties as they apply to abortion, busing, gun control, affirmative action, women's rights, creationism and evolution, prayer in the public

schools, vouchers and tuition tax credits for private schooling, and much else.

Teaching about the Constitution in the schools promises to be no easier in the future than in the past, but it may very possibly be even more important than ever. We still have before us the prescient challenge that Chief Justice Earl Warren gave soon after the historic school desegregation decision of *Brown* in 1954:

> . . . when the generation of 1980 receives from us the Bill of Rights, the document will not have exactly the same meaning it had when we received it from our fathers. We will pass on a better Bill of Rights or a worse one, tarnished by neglect or burnished by growing use. If these rights are real, they need constant and imaginative application to new situations.[24]

C. Whose Constitution Shall We Teach?

In view of this very brief history of the way the Constitution has been taught in the schools, I believe that the public and the profession must face candidly the fact that the schools should deal not only with the formal, structural description of the various sections of the Constitution but with some of the variety of meanings and conflicting interpretations that have marked its history. Obviously, the schools cannot try to prepare constitutional experts, but they should try to give prospective citizens some useful understanding of the principles and the different interpretations underlying our democratic constitutional order. At this point I would like to illustrate what I mean by discussing a theme important for students, teachers, and citizens alike. It focuses on religion, education, and the First Amendment.

I believe that much depends on what history you read and believe--about the "original intention" of the framers of the Constitution and how the Constitution has been interpreted since then by the Supreme Court and the whole federal court system. I shall try to state as fairly as I can what I believe to be the appropriate "history lesson" on this extraordinarily complex and important issue and then indicate how I view the "civics lesson" that the schools might teach.

I hope that such "lessons" might be instructive for the teaching profession, the public, and possibly even for the new Chief Justices and Associate Justice of the Supreme Court. My major point here is to remind the educational profession and the public that present controversies over religion and education have a long history and that the way we read and understand that history makes a difference in our informed policy judgments.

Although the issues are of long-standing dispute, there are three historical clusters of questions that can be discerned in recent controversies over religion and education:

1. What are sound constitutional principles and wise public policies with respect to the use of public funds to aid religious schools?

Since the *Everson* case in 1947, arguments have revolved around the meaning of the establishment clause of the First Amendment, which has generally been taken to mean that tax funds should not be used in ways that benefit religious schools.[25] But contrary arguments have also been advanced supporting such public aid on theories that it benefited the child, not the school; that it provided public funds for auxiliary services and indirect aid, not basic or direct support; that it purchased specialized but non-religious services; that vouchers or tuition tax credits increased parental choice but did not go directly to religious schools; or that "shared time" in which public school teachers are sent to give remedial instruction to private school students in parochial schools is justified as aid to disadvantaged children.

2. What are sound constitutional principles and wise public policies with respect to religious instruction or observances in public schools?

The most visible cases on this issue in recent years have revolved around prayer in the public schools. But, again, this is a long and complicated issue with which the Supreme Court has struggled since the *McCollum* case in 1948, when it ruled that allowing children to attend sectarian classes in public schools during regular school hours and taught by outside religious instructors was unconstitutional.[26] Controversy continues to arise over organized and required prayers, Bible reading, Christmas pageants, reciting the Ten Commandments, teaching creationism, censoring "anti-religious" or "irreligious" or "secular humanist" textbooks, voluntary vocal prayer, voluntary silent prayer or meditation or reflection, or simply "moments of silence" as a substitute for prayer. The defeat in the Senate of a constitutional amendment on prayer in May 1984 led to the passage of the "equal access" act which may have opened another Pandora's box of disputes, because it permits philosophical, religious, and political discussions to be conducted by student groups in extra curricular periods in the schools so long as other student groups may meet for other purposes.

3. There is a third cluster of issues over religion, politics, and education that is not so prominent on the national scene as the above, but it is growing rapidly at the state level. This is the effort to free private religious schools from state authority or state regulation on the basis of the free exercise clause of the First Amendment. It takes the form of arguing that religious schools should not be obliged to meet state requirements concerning certification of teachers, curriculum or textbook standards, or compulsory attendance laws if these conflict with the religious beliefs of the parents or the sponsors of the schools. Some lawyers are even arguing that a public school system based on secular principles is itself a violation of the First Amendment and thus is unconstitutional. Their view is that all

schools should be private. Their motto is: separate the schools from the state.[27] The more prevailing and established constitutional view is that the states do have the competency and the obligation to use their regulatory power to see to it that education for democratic citizenship is promoted in private as well as in public schools. Opposing views on such issues are spelled out in several recent publications.[28]

The discussion here is deliberately limited to education for citizenship in the schools and does not try to cover a wide range of other religious-political topics, such as anti-abortion laws, child abuse, teen-age pregnancy, religious objections to photographs for automobile licenses, requirements that employers give a day off on the Sabbath, religious exemption from draft registration, conflicts over property rights of churches, U.S. representation to the Vatican, Nativity scenes on public property, etc.

With regard to religion and education in the schools there is a concerted revival to call upon the founders of the Republic as witnesses in support of closer ties between religion, politics, and education and thus reverse what conservatives perceive to be ominous trends toward liberalism and secularism during the past 40 or 50 years. Specifically, the effort is to try to show that the doctrine of separation of church and state is a myth or a fiction and to prove that the framers of the First Amendment sought solely to prevent the federal government from establishing a particular single church in preference to all others, and thus the framers supposedly would have approved state establishments of religion that could provide support for religious schools of different faiths just so no preference was shown among them.

In the *Everson* case in 1947 the Supreme Court affirmed an interpretation of the intentions of the Amendment's framers, especially of James Madison, as favoring considerable, if not absolute, separation of church and state at the federal level. This might be termed a "liberal reformation" of the meaning of the First Amendment. The Court went back to the original sources, the historical setting, and the currents of ideas that formed the intellectual and political context in which the First Amendment was framed. Then, by arguing that the mandates of the First Amendment applied to the states as well as to the federal government through the Fourteenth Amendment (the principle of "incorporation"), the Court arrived at the following formulation, which has dominated constitutional thinking for most of 40 years:

> The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another . . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or

> whatever form they may adopt to teach or practice religion . . . In the words of Jefferson, the clause against establishment of religion by law was intended to "erect a wall of separation between Church and State."[29]

The occasion for this case was a challenge to a New Jersey law permitting tax funds to be used by Catholic parents to send their children by bus to parochial schools. The Court split 5-4 in the *Everson* case on whether this *practice* was in effect an establishment of religion and thus unconstitutional, but there was no disagreement on the *principle* of separation of church and state embodied in the establishment clause. Justice Hugo Black wrote for the majority what is quoted above, but in his dissenting opinion, Justice Wiley Rutlege was, if anything, even more sweeping in his statement of the meaning of the establishment clause:

> The prohibition broadly forbids state support, financial or other, of religion in any guise, form or degree. It outlaws all use of public funds for religious purposes.[30]

These pronouncements gave a broad meaning to the establishment clause; they constituted a "liberal reformation" of the narrow meaning which had been formulated by such conservative legal authorities of the nineteenth century as Joseph Story and Thomas Cooley. Moreover, the liberal interpretation relied heavily upon the historical record and the original intention of James Madison as revealed in his activities and writings in the context of the 1770s and 1780s, when the state constitutions and federal constitution were being drafted and adopted.

The *Everson* majority accepted the broad principle but nevertheless decided that bus fares were merely welfare aid to parents and children and not aid to the religious schools themselves. Soon afterward, the *McCollum* case of 1948 prohibited released time for religious instruction in the public schools of Champaign, Illinois as a violation of the *Everson* principle. These two cases set off a thunderous denunciation of the Supreme Court and calls for impeachment of the justices. They also sent some of us historians of education scurrying to the original sources to see how valid was this broad and liberal interpretation agreed to in principle by all the members of the Supreme Court. The outpouring of writing pro and con cannot be cited here, but the interested reader could look for critiques by Edward S. Corwin, Mark DeWolfe Howe, Wilfrid Parsons, and many Catholic writers; for support of the Supreme Court's principle to Anson Phelps Stokes, Leo Pfeffer, Herman Pritchett, Philip Kurland, Milton Konvitz, the American Civil Liberties Union, and Protestants and Others United for Separation of Church and State.

The two books at that time that gave most attention to the establishment principle as it related specifically to education were: James M. O'Neill's

Religion and Education Under the Constitution[31] and my own *The American Tradition in Religion and Education.*[32] O'Neill found the Court's interpretation appalling; I found it basically true to Madison and the majority of the framers. O'Neill's book was hailed by many Catholic reviewers and a few Protestants. Mine received favorable reviews in a score of scholarly journals and a dozen educational journals. Successive editors of *America*, Father Robert Hartnett and Father Thurston Davis, lambasted my book, as did O'Neill. But it was cited in 1971 in the concurring opinions of Justices Brennan, Douglas, and Black in *Lemon* v. *Kurtzman* when Chief Justice Burger summarized for a unanimous court the accumulated precedence since *Everson*. These were the three tests of constitutional state action in education: primarily a secular purpose; neither advancement nor inhibition of religion; and no excessive government entanglement with religion.[33]

With that decision I had concluded that my views of the framers' historical intentions had been pretty well accepted: namely, that "an establishment of religion" in the 1780's was widely known to be "a multiple establishment" whereby public aid went to several churches, not just one, and that this is what the majority of framers, above all Madison, intended to prohibit in the First Amendment.[34]

The Conservative Counterreformation

But now in recent years something like a "conservative counterreformation" has arisen to attack once again the Court's adherence to a broad or liberal principle of separation between church and state and, as I have said, to characterize it as a "myth", a "fiction," or merely "rhetoric." The conservative underpinnings are clear in "a jurisprudence of original intention," which has revived the debates of the 1940s and 1950s, expounding much the same views as those of O'Neill, namely, that "the framers" intended only to prohibit Congress from establishing a single national church, but would permit Congress to aid all religions on a non-discriminatory basis and would even permit the states to establish a single church if they wished. Such arguments are now being resurrected or reincarnated (if I may use the secular meaning of those terms) with even more sophisticated scholarship by such authors as Walter Berns of Georgetown University, Michael Malbin of the American Enterprise Institute, and Robert L. Cord of Northeastern University.[35]

The point is that these conservative revisionist views of the historical meaning of the establishment clause of the First Amendment are being advanced by powerful voices in the White House, the Justice Department, the Senate, and the federal judiciary itself as well as by a variety of conservative religious organizations. In January 1983 Federal Judge W. Brevard Hand gave credence to these views when he upheld Alabama laws providing for prayer in the public schools on the grounds that the Supreme Court

had erred in its historical reading of the intentions of the framers of the First Amendment. He relied on Robert L. Cord's study by arguing that the First Amendment was intended solely to prevent the federal government from establishing a single church like the Church of England and that the state of Alabama could therefore establish a state religion if it chose to do so.[36] This line of argument and supporting documentation were adopted by the Republican majority on the Senate Judiciary Committee in January 1984 when it recommended a constitutional amendment to permit school prayer in the public schools. But the proposal was defeated after long and rancorous debate in the Senate in March 1984.

On June 4, 1985, the Supreme Court further rebuked this argument when Justice John Paul Stevens in his opinion for the Court (6 to 3) in the *Wallace v. Jaffree* case reversed Judge Hand and referred to his "newly discovered historical evidence" as a "remarkable conclusion" wholly at odds with the firmly embedded constitutional proposition that "the several States have no greater power to restrain the individual freedoms protected by the First Amendment than does the Congress of the United States." Justice Stevens insisted that the Court had confirmed and endorsed time and time again the principle of incorporation by which the Fourteenth Amendment imposes the same limitations on the States that it imposes on Congress with regard to the protection of civil liberties guaranteed by the First Amendment and the original Bill of Rights.[37]

It was plain, however, that the confrontations between these views of history were not over. In his long dissent in *Jaffree* Justice William H. Rehnquist, now Chief Justice, reasserted an "accommodationist" view of church and state relations, and, relying on O'Neill and Cord, he argued that the "wall of separation between church and state" is a metaphor based on bad history and furthermore that the *Everson* principle "should be frankly and explicitly abandoned." Justice Byron R. White in his dissent supported such "a basic reconsideration of our precedents."[38]

Determined not to be boxed in by the Supreme Court majority, Judge Hand reversed his field on March 4, 1987 by ruling that "secular humanism" was a religion being preached by 40 textbooks used in Alabama's schools and so ordered them to be removed under the First Amendment.[39] If Alabama children could not pray in school, then neither could they study textbooks that neglect the role of traditional religion and discriminate against theistic religion in favor of humanistic religion. Judge Hand had given fair warning in a footnote in his earlier 1983 decision that he might well render such a decision on secular humanism.[40]

Although on September 10, 1985 the Senate by a vote of 62-36 once more defeated Senator Jesse Helms' effort to pass legislation preventing federal courts from ruling on prayer issues, as early as October 3 the Republican controlled Senate Judiciary Committee approved (12-6) yet

another constitutional amendment proposed by Senator Orrin Hatch to permit "individual or group silent prayer or reflection" in the public schools.[41]

Soon thereafter, the Supreme Court ruled on July 1, 1985 in *Aguilar* v. *Felton* (5-4) that the practices of New York City (and Grand Rapids, Michigan) in sending public school teachers into private religious schools to teach remedial and enhancement programs for disadvantaged children were also unconstitutional, invoking the *Everson* principle that the state should remain neutral and should not become entangled with churches in administering educational affairs in the schools. The Court's opinion was delivered by Justice William J. Brennan, and dissents were written by Chief Justice Burger and by Justices Sandra Day O'Conner, White, and Rehnquist.[42]

These Supreme Court decisions on school prayer and "shared time" were greeted with some surprise and considerable elation in liberal quarters of government, religion, education, and politics, but with dismay in conservative sectors. Attorney General Edwin Meese III quickly and forcefully responded on July 10, 1985 in a speech before the American Bar Association in which he explicitly criticized the Court's decisions on religion and education as a misreading of history. He castigated the justices for relying on their own ideological predilections rather than on the original intentions of the founders. He stressed the fact that the Bill of Rights did not apply to the states until 1925 when the Supreme Court began to argue that the limitations upon Congress as stated in the original Bill of Rights were applied to the states through the Fourteenth Amendment, i.e., the principle of incorporation carries federal protections of "life, liberty, and property" to the states:

> . . . nothing can be done to shore up the intellectually shaky foundation upon which the [incorporation] doctrine rests. And nowhere else has the principle of federalism been dealt so politically violent and constitutionally suspect a blow as by the theory of incorporation.[43]

Mr. Meese commended Justice Rehnquist's argument that the Court's decision in *Jaffree* was based upon a misreading of history and therefore that *Everson* should be overruled:

> The point, of course, is that the Establishment Clause of the First Amendment was designed to prohibit Congress from establishing a national church. The belief was that the Constitution should not allow Congress to designate a particular faith or sect as politically above the rest. But to have argued, as is popular today, that the amendment demands a strict neutrality between religion and irreligion would have struck the founding generation as bizarre.

> The purpose was to prohibit religious tyranny, not to undermine religion generally . . . . it seems fair to conclude that far too many of the Court's opinions were, on the whole, more policy choices than articulations of constitutional principle. The voting blocs, the arguments, all reveal a greater allegiance to what the Court thinks constitutes sound public policy than a deference to what the Constitution--its text and intention--may demand. . . .
>
> In my opinion a drift back toward the radical egalitarianism and expansive civil libertarianism of the Warren Court would once again be a threat to the notion of limited but energetic government.
>
> What, then, should a constitutional jurisprudence actually be? It should be a Jurisprudence of Original Intention. By seeking to judge policies in light of principles, rather than remold principles in light of policies, the Court could avoid both the charge of incoherence *and* the charge of being either too conservative or too liberal.
>
> A jurisprudence seriously aimed at the explication of original intention would produce defensible principles of government that would not be tainted by ideological predilection.

In concluding his speech Attorney General Meese gave a challenge and a warning to the Supreme Court:

> Those who framed the Constitution chose their words carefully; they debated at great length the most minute points. The language they chose meant something. It is incumbent upon the Court to determine what that meaning was . . . .
>
> It has been and will continue to be the policy of this administration to press for a Jurisprudence of Original Intention. In the cases we file and those we join as *amicus*, we will endeavor to resurrect the original meaning of constitutional provisions and statutes as the only reliable guide for judgment.

Attorney General Meese was obviously relying upon views like those of Grover Rees, law professor at the University of Texas, who defended President Reagan's prayer amendment by calling the wall of separation of church and state a myth and who became a special assistant to Mr. Meese supervising the process by which judges are selected and appointed to the federal judiciary.[44]

The fact that President Reagan had already appointed by 1986 more than 25% of the nation's federal judges and may well have appointed over half

of all federal judges by the end of his second term has led several noted legal scholars to express great concern about the ideological tests being applied to the appointment process. Among these critics are such legal scholars as Laurence H. Tribe, professor of constitutional law at Harvard,[45] Herman Schwartz, professor of law at The American University,[46] and A.E. Dick Howard, professor of law at the University of Virginia.[47]

On several occasions in July and August 1985 Secretary of Education William J. Bennett also rose to the fray by asserting that the Supreme Court's "fastidious disdain for religion" as revealed in its summer decisions was unhealthy, badly reasoned, and historically unjustified: "Nor is it required by the First Amendment, in any historically sound reading of its purpose or meaning."[48]

In a notable speech to the Knights of Columbus on August 7, 1985 Secretary Bennett gave a ringing affirmation that public as well as private schools "have no higher calling than to transmit those values that all Americans share." By this he meant:

> It remains a fact that in the President's words "the Western ideas of freedom and democracy spring directly from the Judeo-Christian religious experience." The fate of our democracy is intimately intertwined, "entangled," if you will with the vitality of the Judeo-Christian tradition.[49]

Secretary Bennett gave notice that the Supreme Court's "misguided judgments" of the past 20 years would not dissuade the U.S. Department of Education from trying to nullify the Court's decisions on shared time and prayer. It will refuse to accept the reasoning underlying the Court's recent decisions as sound; it will not only work to restore prayer to public schools but for vouchers and tax credits for private schools:

> The Administration in which I serve will continue to press for legislation and, where necessary, judicial reconsideration and constitutional amendment to help correct the current situation of disdain for religious belief.[50]

Raising the Debate to New Heights

A public confrontation between the conservative expressions of the Administration spokesmen and the most outspoken liberal on the Supreme Court was soon joined in a speech given by Justice Brennan at Georgetown University on October 12, 1985. In unusually sharp terms Brennan took direct issue with the "jurisprudence of original intention." Without mentioning names, he said:

> There are those who find legitimacy in fidelity to what they call "the intentions of the Framers." In its most doctrinaire incarna-

tion, this view demands that Justices discern exactly what the Framers thought about the question under consideration and simply follow that intention in resolving the case before them. It is a view that feigns self-effacing deference to the specific judgments of those who forged our original social compact. But in truth it is little more than arrogance cloaked as humility. It is arrogant to pretend that from our vantage we can gauge accurately the intent of the Framers on application of principle to specific, contemporary questions. All too often, sources of potential enlightenment such as records of the ratification debates provide sparse or ambiguous evidence of the original intention. Typically, all that can be gleaned is that the Framers themselves did not agree about the application or meaning of particular constitutional provisions, and hid their differences in cloaks of generality. And apart from the problematic nature of the sources, our distance of two centuries cannot but work as a prism refracting all we perceive . . . . Those who would restrict claims of right to the values of 1789 specifically articulated in the Constitution turn a blind eye to social progress and eschew adaptation of overarching principles to changes of social circumstances . . . .[51]

Thus, if I may borrow the words of an esteemed predecessor, Justice Robert Jackson, the burden of judicial interpretation is to translate "the majestic generalities of the Bill of Rights, conceived as part of a pattern of liberal government in the eighteenth century, into concrete restraints on officials dealing with the problems of the twentieth century." (Barnette, 319 U.S. at 639).

We current Justices read the Constitution in the only way that we can: as 20th century Americans. We look to the history of the time of framing and to the intervening history of interpretation. But the ultimate question must be, what do the words of the text mean in our time.[52]

Pointedly referring to "the amended Constitution" Brennan stressed that the very purpose of the Constitution was "to declare certain values transcendent, beyond the reach of temporary majorities" that would operate against the rights of minorities. And he reminded his audience that the unamended Constitution dealt primarily with prescribing and limiting the powers of government, whereas the amendments addressed the vision of the rights and dignity of the individual.

Justice Brennan then gave a ringing defence of the process since 1925 whereby the great rights of expression and of conscience were indeed "absorbed" into our basic charter by the Court's interpretation of the Fourteenth Amendment. He concluded this part of his speech with an accurate restatement of the Jeffersonian and Madisonian purposes of civic educa-

tion, namely, to prepare citizens to engage in "robust public discussion" as a means to "form and express political judgments:"

> Recognition of broad and deep rights of expression and of conscience reaffirm the vision of human dignity in many ways. They too redeem the promise of self-governance by facilitating--indeed demanding--robust, uninhibited and wide-open debate on issues of public importance. Such public debate is of course vital to the development and dissemination of political ideas. As importantly, robust public discussion is the crucible in which personal political convictions are forged. In our democracy, such discussion is a political duty; it is the essence of self government. The constitutional vision of human dignity rejects the possibility of political orthodoxy imposed from above; it respects the right of each individual to form and to express political judgments, however far they may deviate from the mainstream and however unsettling they might be to the powerful or the elite.[53]

Adding still another dimension to the unusual public confrontation between individual members of the Supreme Court and of the Administration, Associate Justice John Paul Stevens criticized Attorney General Meese by name in his speech to the Federal Bar Association on October 23, 1985. He stressed the uncertainty attending the messages being conveyed by the framers 200 years ago as well as the complexity and diversity of the original intentions of the framers:

> We must, of course, try to read their words in the context of the beliefs that were widely held in the late 18th century . . . . The term "founding generation" [as used by Attorney General Meese] describes a rather broad and diverse class. It includes apostles of intolerance as well as tolerance, advocates of different points of view in religion as well as politics, and great minds in Virginia and Pennsylvania as well as Massachusetts. I am not at all sure that men like James Madison, Thomas Jefferson, Benjamin Franklin or the pamphleteer, Thomas Paine, would have regarded strict neutrality on the part of the Government between religion and irreligion as "bizarre."[54]

Nearly a year later this debate broadened to the Fourteenth Amendment. In August 1986 Justice Brennan in a speech to the American Bar Association hailed it as perhaps the most important "legal instrument of the egalitarian revolution that transformed contemporary American society." In effect, the Reconstruction amendments gave us a brand new Constitution; new meanings for "due" in "due" process" and new meaning for "equal" in "equal protection of the laws". In September William Bradford Reynolds, Assistant Attorney General for civil rights, denounced Justice

Brennan and his radical egalitarianism as "perhaps the major threat to individual liberty in the United States today."[55]

Then, on October 22, 1986, Attorney General Meese returned to the argument on judicial activism by stating that the Supreme Court's rulings are not necessarily binding on persons or government officials who had not been parties to the Court's decisions.[56] Once gain, his example had to do with an educational issue. He referred to *Cooper* v. *Aaron* (1958) in which the Supreme Court overruled Governor Orval Faubus who had argued that the *Brown* decision of 1954 ordering desegregation of public schools in Topeka, Kansas did not apply to Little Rock, Arkansas, because Little Rock had not been a party to the *Brown* case. Meese seemed to be arguing that each branch of government could decide for itself what was and what was not constitutional.

In *Cooper* v. *Aaron*, however, the Supreme Court, in an unprecedented opinion personally signed by all nine justices, stated that the Supremacy Clause made the Constitution the supreme law of the land, that it was the function of the Supreme Court to say what the law is, and that the Fourteenth Amendment applied *Brown* to all state officials as well as federal officers.[57] What the Attorney General might have done next on these issues is not clear, because his and the nation's interests were soon absorbed by the November revelations concerning the Iran-Contra affair. Then, with Justice Lewis Powell's resignation in June 1987 and the nomination of Judge Robert Bork to replace him, constitutional ideology once again came to the fore in the confirmation hearings of 1987.

Meanwhile, in May 1987 still another Supreme Court Justice entered the public arena of debate over constitutional questions. Justice Thurgood Marshall stirred more than a ripple of debate by his direct criticism of the "original intent" of the framers who accepted continuation of the slave trade in the Southern states as a trade-off to the Northern states' desire for Congressional power to regulate commerce. The Constitution of 1787 gave no vote to women and regarded black slaves as rightful property to be bought and sold, an original intent reaffirmed by the *Dred Scott* case in 1857. In these words Justice Marshall announced that he would celebrate the Constitution on its Bicentennial as "a living document", which evolved through the Bill of Rights and the other amendments protecting individual freedoms and human rights:

> . . . I do not believe that the meaning of the Constitution was forever "fixed" at the Philadelphia Convention. Nor do I find the wisdom, foresight, and sense of justice exhibited by the Framers particularly profound. To the contrary, the government they devised was defective from the start, requiring several amendments, a civil war, and momentous social transformation to attain the system of constitutional government, and its respect for the in-

dividual freedoms and human rights, we hold as fundamental today. When contemporary Americans cite "The Constitution," they invoke a concept that is vastly different from what the Framers barely began to construct two centuries ago. . . .

While the Union survived the civil war, the Constitution did not. In its place arose a new, more promising basis for justice and equality, the 14th Amendment, ensuring protection of the life, liberty, and property of all persons against deprivations without due process, and guaranteeing equal protection of the laws. And yet almost another century would pass before any significant recognition was obtained of the rights of black Americans to share equally even in such basic opportunities as education, housing, and employment, and to have their votes counted, and counted equally. . . .

What is striking is the role legal principles have played throughout America's history in determining the condition of Negroes. They were enslaved by law, emancipated by law, disenfranchised and segregated by law; and, finally, they have begun to win equality by law. Along the way, new constitutional principles have emerged to meet the challenges of a changing society. The process has been dramatic, and it will continue.

The men who gathered in Philadelphia in 1787 could not have envisioned these changes. They could not have imagined, nor would they have accepted, that the document they were drafting would one day be construed by a Supreme Court to which had been appointed a women and the descendent of an African slave. "We the People" no longer enslave, but the credit does not belong to the Framers. It belongs to those who refused to acquiesce in outdated notions of "liberty," "justice," and "equality," and who strived to better them.[58]

This series of direct and personal encounters reveals a remarkable and major difference between the debates of the late 1940s and early 1950s and the present public confrontations. Then, the Truman and Eisenhower Administrations pretty much left the matter in the hands of the courts and the Congress. In 1986, the White House, the Attorney General and the Justice Department, the Secretary of Education, the Republican majority on the Senate Judiciary Committee, and the new Chief Justice and conservative justices on the Supreme Court were ranged against the liberal and centrist members of the Supreme Court and the Congress and such notable constitutional scholars as Laurence Tribe of Harvard, Herman Schwartz of American University, A. E. Dick Howard of the University of Virginia, and Leonard W. Levy of the Claremont Graduate School. They

all appeal to history in one way or another. Whose history do you read and believe?

In general, I believe that the views of Justices Brennan and Stevens regarding the original intention of the framers are closer to the mark than are those of Attorney General Meese, but I also believe that the "original intention" argument should not be easily given away when it comes to the historical meaning and even the wording of the establishment clause of the First Amendment. It is true that the framers could not have anticipated 20th century issues growing out of wiretapping or electronic surveillance as a means of unwarranted "search," or busing as a device to achieve "equal protection of the laws."

But it is also true that today's controversies over the relations of church and state are not all that different from what they were in the latter part of the eighteenth century. The issues involved in achieving and maintaining religious freedom in a pluralist society have a long and remarkably persistent history from the Protestant Reformation of the sixteenth century to the present day.

D. A Case Study in "Original Intent": The Establishment Clause

This cannot be the place for a substantive historical treatment of the merits of the conservative efforts to reinterpret the Supreme Court's major constitutional principles of the past four decades on religion and education. But it is important to look briefly at the historical record regarding these arguments, which on the surface are being made to appear quite conclusive and simple.

Let's apply a test of civic literacy in a democracy formulated by my former colleague at Teachers College, Columbia University, who was a notable proponent of public-policy discussion as an essential ingredient of adult civic education. Lyman Bryson argued that, if democracy is to survive in the modern world, citizens "must learn to distinguish between the significant truth and the plausible falsehood or beguiling half-truth."[59]

The conservative argument runs like this: the First Amendment's prohibition against "an establishment of religion" simply refers to a single church, like the Church of England. Thus, if the federal or the state governments aid several or all churches in promoting prayer in public schools, or providing public funds for all religious schools on a non-discriminatory basis, the framers would have approved.

Plausible? Yes, plausible, but false.

What an "Establishment of Religion" Meant in 1789

It is true that during the Reformation when the Roman Catholic Church was being displaced from its seat of power in the 16th and 17th centuries a single Protestant church was established by law in some of the national states of Europe: Lutheran in Scandinavia and northern Germany, Reformed in the Netherlands, Presbyterian in Scotland, and Anglican in England. In the early American colonies, single establishments were the rule in nine colonies, stronger in some and weaker in others: Congregationalism was established in Massachusetts, Connecticut, and New Hampshire; Church of England in Virginia, Maryland, North Carolina, South Carolina, and Georgia; and Dutch Reformed in New Netherlands until the English and Anglicans gained power in New York. No establishment was ever enacted by law in Pennsylvania, Delaware, Rhode Island, or New Jersey.

But, by the end of the 18th century, "an establishment of religion" had taken on a new and distinctive meaning in America. Due to the influx and growing political power of an increasing number of different Protestant denominations and of Roman Catholics, multiple Christian churches were admitted to the "establishments of religion" in six of the original colonies, all of which had begun with single establishments.

In the course of the 18th century Anglicans and other Protestants were admitted to the establishment alongside the Congregationalists in Massachusetts, Connecticut, and New Hampshire; local option among Protestants established town majority rule in New York; and Catholics shared state support with Protestants in Maryland, whose Constitution of 1776 said "the Legislature may, in their discretion, lay a general and equal tax, for the support of the Christian religion: leaving to each individual the power of appointing the payment over of the money, collected from him, to the support of any particular place of worship or minister . . . ."[60]

New Englanders were never so generous as to extend establishment privileges to Roman Catholics. But, as early as 1727, Massachusetts began to allow Episcopalians to apply their religious taxes to their own ministers. Then, for nearly a century, the legislature authorized and required the towns, parishes, and other body politics to levy taxes for the support of "public Protestant teachers of piety, religion, and morality." This principle of local option was embedded in the Massachusetts Constitution of 1780, thus leaving the relations of religion and government to the political process, on the assumption that religion was a matter for the local community to decide rather than for the individual. Everyone had to pay religious taxes; a person could opt to have his taxes paid to his own minister--if he attended services regularly; but if he did not attend regularly, his taxes went to the "settled" minister who had been elected by majority vote of the local community.[61]

However, the most elaborate provisions for what I call a "multiple establishment of religion" were stated unequivocally in the constitution of Senator Strom Thurmond's own state. The South Carolina Constitution of 1778 could not have been more explicit:

> The Christian Protestant religion shall be deemed, and is hereby constituted and declared to be, the established religion of this State . . . . All denominations of Christian Protestants in this State demeaning themselves peaceably and faithfully shall enjoy equal religious and civil privileges.[62]

The Constitution goes on to describe in great detail how every Christian Protestant denomination "either already formed or hereafter to be formed" shall be "ESTEEMED AND REGARDED in law of the established religion of the State, and on a petition to the legislature shall be entitled to be incorporated and to enjoy equal privileges."

It is clear that "equal privileges" meant that all authorized Protestant denominations would be entitled to tax support along with the Church of England. And the Constitution spelled out that the members of each church of the established religion of the state would have to subscribe to the following:

> lst. That there is one eternal God, and a future state of rewards and punishments.
>
> 2d. That God is to be publicly worshipped.
>
> 3d. That the Christian religion is the true religion.
>
> 4th. That the holy scriptures of the Old and New Testaments are of divine inspiration, and are the rule of faith and practice.
>
> 5th. That it is lawful and the duty of every man being thereun to called by those that govern, to bear witness to the truth.

Now, it is true that South Carolina still discriminated against Catholic Christians and non-Christians, but the idea of a single church as constituting "an establishment of religion" was no longer embedded in the legal framework of any American state when the First Amendment was being debated in Congress in the summer of 1789. Between 1776 and 1789 three states achieved disestablishment (New York, Virginia, and North Carolina). In all six of those states that still authorized establishments of religion by law (Massachusetts, Connecticut, New Hampshire, Maryland, South Carolina, and Georgia), multiple establishments were the rule, meaning that several churches could share in tax funds for the support of their own religious views. In other words, citizens had a choice among es-

tablished churches. In 1789 seven states, numbering the vast majority of Americans, had either disestablished their churches or had never established any. In the other six, tax funds could go to several churches, not just one. The founders and the framers could not have been ignorant of this fact; they knew very well that a multiple establishment is what the majority in the First Congress intended to prohibit at the federal level.

What Madison Intended

The principal framer of the First Amendment was especially aware of this meaning of "an establishment of religion," a phrase he often used. The religious conservatives of Virginia tried in 1784 to revive the idea of multiple establishment in a tax bill modeled on an earlier conservative proposal of 1779 and remarkably similar to the South Carolina Constitution of 1778. Entitled a "Bill Establishing a Provision for Teachers of the Christian Religion," it would have included all Christians, not simply Protestants. James Madison fought it with all his powers. He argued forcefully and persuasively that an assessment on all citizens to pay teachers of religion (even a minister of one's own denomination) was clearly "an establishment of religion." He was able to marshall the liberal religious forces of Virginia to defeat the assessment bill and, instead, to pass Jefferson's historic statute for religious freedom in 1786. All this on the eve of the Constitutional Convention and adoption of the Constitution.

The record of Madison's views in the First Congress over the wording of the establishment clause of the First Amendment is particularly illuminating on this point. When he first introduced his proposals for a Bill of Rights on June 8, 1989, Madison proposed a double-barreled approach to religious freedom: (1) prohibit Congress from establishing religion on a national basis and (2) prohibit the states from infringing the equal rights of conscience. It is clear that there were differences of opinion among the members of Congress. Naturally, some representatives and senators did not want their multiple establishments to be threatened by a bill of rights in the new federal Constitution that would put restrictions on the states. But Madison did. And the majority in the House of Representatives supported Madison on both counts. It will not do to imply that the framers had only one intention.[63]

Under Madison's leadership, the House version that was approved and sent to the Senate on August 21, 1789 read "Congress shall make no law establishing religion." However, the first versions proposed in the Senate tried to retain the earlier and narrower prohibition against the establishment of a single church. One version stated "Congress shall make no law establishing one Religious Sect or Society in preference to others," and another tried "Congress shall make no law establishing any particular denomination of religion in preference to another." These wordings would have permitted a multiple establishment at the federal level and would

have preserved the existing state multiple establishments against future federal intervention, but they were not adopted by the Senate. The majority, even in the Senate, rejected all such attempts to narrow Madison's proposals and finally acceded to the wording of the conference committee, a wording that may have been Madison's own. What present-day conservatives argue was the "intention of the framers" was actually defeated two or three times in the Senate.

The point is that the House conferees led by Madison insisted on the broader and more liberal final version prohibiting any "law respecting an establishment of religion," and the Senate finally acceded to the wording worked out by the Conference Committee, consisting of Representatives Madison (Va.), Roger Sherman (Conn.), and John Vining (Del.) and Senators Oliver Ellsworth (Conn.), Charles Carroll (Md.), and William Paterson (N.J.). This is the phrase that was approved by both Houses in 1789 and ratified by eleven of the fourteen states in 1791. Massachusetts, Connecticut, and Georgia (all with multiple establishments of religion) did not get around to ratifying the Bill of Rights until the Sesquicentennial of the ratification of the Constitution in 1939. Remarkably, five members of the Conference Committee were from "small states" jealous of their rights and three from states that still approved multiple establishments of religion. Undoubtedly, some members read different meanings into the final wording, but Madison's intention was unmistakably clear.

True, the First Amendment did not restrict the states as it restricted Congress, but it is also true that the House, again under the leadership of Madison, formally approved and sent to the Senate an article of amendment that would have prohibited the states from violating the equal rights of conscience, trial by jury, or freedom of speech or the press. In his notable speech of June 8, 1789 when he introduced his proposals for the Bill of Rights, Madison spoke of these three great rights as "those choicest privileges of the people."

Madison's June 8 speech is a prime source of his intentions. It should be regarded as one of America's great state papers.[64] In this speech Madison at first proposed that the text of the Constitution itself be amended or enlarged rather than that the amendments should be added on at the end. This method of amendment was not adopted, largely on the plea that the original text should not be tampered with, but the point is important for understanding Madison's full intentions.

Interestingly, one of the major opponents of Madison's proposed method of amendments was Roger Sherman of Connecticut, a member along with Madison of the House Select Committee that had been appointed to consider the question of amendments. It has long been assumed that Sherman was generally opposed to a Bill of Rights in the federal Constitution. But the announcement as recently as August 1987 of the discovery of a

draft of a Bill of Rights handwritten by Sherman in July of 1789 makes it clear that Sherman only opposed Madison's method of working the amendments into the text of the Constitution itself, not to the idea or substance of a bill of rights.

The discoverer of Sherman's draft, filed away in the Madison papers, was James C. Hutson, chief of the Library of Congress manuscript division. He stated:

> Far from opposing Madison on the substance of a bill of rights, Sherman included in his draft many of the provisions contained in Madison's speech of June 8, 1789 . . . In places, he borrowed Madison's exact language. Although Sherman added some ideas of his own, his draft was an effort to condense and refine Madison's original proposals. He was more of a collaborator than an adversary of Madison.[65]

It may be significant that Sherman's draft regarding freedom of religion picked up Madison's stress on "the rights of conscience in matters of religion," but said nothing about prohibiting an establishment of religion. In view of Connecticut's establishment of religion, this might not be merely an effort to "condense" Madison's wording. It could have been an effort to protect Connecticut's establishment. But, in the end, Sherman agreed with Madison on establishment, both in the proposals of the House Select Committee and in the final approval by the Senate/House Conference Committee. The "original intention" of some of the framers is still being discovered and revised.

Madison proposed, first, that several clauses be inserted in Article I, Section 9, of the Constitution. This is the section that puts limits on the powers of Congress. Madison proposed that the following clause on religion should be inserted immediately after the guarantees of habeas corpus and prohibition of bills of attainder and ex post facto laws:

> The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.[66]

The emphasis here is upon the civil rights of religious belief and worship as natural, inalienable rights that could not be abridged by Congress. The strongest emphasis is put upon full and equal rights of conscience. The linkage of freedom and equality required that government not enter into the realm of religion in any manner or on any pretext. Before the law, a person's religious views or lack of them are to be deemed equal in rights to those of any other person. The government could not make distinctions or indicate preferences or priorities of one religion over another or prefer

religion to the lack of it. Each individual was to be the judge of his own religious beliefs, and his conscience was to be respected even if he had no religious beliefs in the usual sense or even if he had anti-religious beliefs.

Promotion of religion by government was outlawed if any individual claimed that his rights of conscience or any part of them were being jeopardized. If Madison's wording had been accepted, I do not see how anyone could argue that government could promote one religion over another or religion in general rather than non-religion. Madison used the phrases equal rights of conscience and liberty of conscience almost interchangeably. Not only was the individual to be free from governmental interference with his religious beliefs, he had the right not to be the subject of discrimination because of his beliefs; and his other civil rights were not to be put in jeopardy because of his religious beliefs or associations or lack of them. If one's rights of conscience are equal to all others, the absence of a particular or any religious belief does not prejudice one's standing in law when compared with those who do have religious beliefs.

It is noteworthy that Madison was anxious to put limits upon the states as well as upon the Congress. This "original intention" seems to have escaped the notice of conservative revisionist historians. He proposed that the following clause be inserted in Article I, Section 10, which limits the powers of the states:

> No state shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.[67]

If Madison's proposals had been adopted, it could not have been argued that the First Amendment applies only to the Congress and not to the states. Madison's proposal would have asserted the power of the federal Constitution over questions of liberty and equality in the states and might have shortened the long and involved judicial procedures that have accompanied the incorporation of some elements of the original Bill of Rights through the Fourteenth Amendment over the past several decades.

Listen to Madison himself on this point:

> I wish also, in revising the constitution, we may throw into that section, which interdicts the abuse of certain powers in the State Legislatures, some other provisions of equal, if not greater importance than those already made. The words, "No State shall pass any bill of attainder, *ex post facto* law," &c. were wise and proper restrictions in the constitution. I think there is more danger of those powers being abused by the State Governments than by the Government of the United States. The same may be said of other powers which they possess, if not controlled by the general principle, that laws are unconstitutional which infringe the rights of the

> community. I should therefore wish to extend the interdiction, and add, as I have stated in the 5th resolution, that no State shall violate the equal rights of conscience, freedom of the press, or trial by jury in criminal cases; because it is proper that every Government should be disarmed of powers which trench upon those particular rights. I know, in some of the State constitutions, the power of the Government is controlled by such a declaration; but others are not. I cannot see any reason against obtaining even a double security on those points; and nothing can give a more sincere proof of the attachment of those who opposed this constitution to these great and important rights, than to see them join in obtaining the security I have now proposed; because it must be admitted, on all hands, that the State Governments are as liable to attack these invaluable privileges as the General Government is, and therefore ought to be as cautiously guarded against.[68]

I believe that Madison would have supported the Supreme Court in applying the First Amendment to restrict the powers of the states as it did in the *Everson* and *McCollum* cases.

Madison said several times that the "great rights," "those choicest privileges of the people," were liberty of conscience, freedom of the press, and trial by jury. These should therefore be doubly protected in both federal and state constitutions. But Madison went much further than this. He spoke at some length on the desirability of looking upon the federal bill of rights as a corrective of the bills of rights in the state constitutions. In the realm of civil liberties and civil rights, Madison clearly felt that the federal power should be supreme not only in law as interpreted by the federal courts but as a molder of public opinion in the community.

Madison believed that the protection of the rights of the people could not be left to the states alone. In our time, when it is urged that the relation of religion and education should be a local and state matter, and that educational control and support are local, parental, and state matters, it is important to remember that Madison would not have left the people's rights of freedom and equality exclusively in local and state hands. Listen to him:

> . . .Some states have no bills of rights, there are others provided with very defective ones, and there are others whose bills of rights are not only defective, but absolutely improper; instead of securing some in the full extent which republican principles would require, they limit them too much to agree with the common ideas of liberty.[69]

In other words, republican principles and common ideas of liberty should take precedence over the will of local and state majorities. The best protection is to be found when bills of rights in the state and federal constitutions agree, but when they disagree, the federal constitution should be the corrective for the states. Listen again to Madison:

> But whatever may be the form which the several States have adopted in making declarations in favor of particular rights, the great object in view is to limit and qualify the powers of Government, by excepting out of the grant of power those cases in which the Government ought not to act, or to act only in a particular mode. They point these exceptions sometimes against the abuse of the executive power, sometimes against the legislative, and, in some cases, against the community itself; or, in other words, against the majority in favor of the minority.
>
> In our Government it is, perhaps, less necessary to guard against the abuse in the executive department than any other; because it is not the stronger branch of the system, but the weaker: it therefore must be levelled against the legislative, for it is the most powerful, and most likely to be abused, because it is under the least control. Hence, so far as a declaration of rights can tend to prevent the exercise of undue power, it cannot be doubted but such declaration is proper. But I confess that I do conceive, that in a Government modified like this of the United States, the great danger lies rather in the abuse of the community than in the legislative body. The prescriptions in favor of liberty ought to be levelled against that quarter where the greatest danger lies, namely, that which possesses the highest prerogative of power. But this is not found in either the executive or legislative departments of Government, but in the body of the people, operating by the majority against the minority.
>
> It may be thought that all paper barriers against the power of the community are too weak to be worthy of attention. I am sensible they are not so strong as to satisfy gentlemen of every description who have seen and examined thoroughly the texture of such a defence; yet, as they have a tendency to impress some degree of respect for them, to establish the public opinion in their favor, and rouse the attention of the whole community, it may be one means to control the majority from those acts to which they might be otherwise inclined.[70]

Here is a clear vision of the positive role of a free government in protecting the rights and liberties of individuals. Freedom is not merely something to be protected against invasion by government; it is something that governments must protect against violation by one group or individual at the ex-

pense of others in the community. States should protect local minorities against local majorities. But, also, the federal government must protect minorities in a state against majorities in a state.

As the Supreme Court and federal courts in recent years have ruled against local and state majorities on questions of religion, segregation, loyalty oaths, and the other freedoms of speech and belief, I think Madison would have approved, for he said:

> If they [bills of rights] are incorporated into the constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the constitution by the declaration of rights. Besides this security, there is a great probability that such a declaration in the federal system would be enforced; because the State Legislatures will jealously and closely watch the operations of this Government, and be able to resist with more effect every assumption of power, than any other power on earth can do; and the greatest opponents to a Federal Government admit the State Legislatures to be sure guardians of the people's liberty. I conclude, from this view of the subject, that it will be proper in itself, and highly politic, for the tranquility of the public mind, and the stability of the Government, that we should offer something, in the form I have proposed, to be incorporated in the system of Government, as a declaration of the rights of the people.[71]

But the more conservative Senate would not agree to this restriction on states' rights and thus delayed a positive civil rights and civil liberties role for the federal government for many decades. Nevertheless, the six older states that had not already done so began to disestablish their multiple state establishments of religion: South Carolina in 1790, Georgia in 1798, Maryland in 1810, Connecticut in 1818, New Hampshire in 1819, and Massachusetts in 1833. And the newer states, as they were admitted to the Union, quite regularly followed the lead of the First Amendment, as Madison intended they should. Madison and his supporters did not intend for government to disdain religion or religious values; they intended that republican government at both federal and state levels guarantee full religious freedom and equal rights of conscience to all persons. But it took 150 years before Madison's views were applied to the states through the Fourteenth Amendment, which is what the Supreme Court in *Everson* did.

E. Informing Public Debate

To be sure, the American people do now have a right to rebuke the Supreme Court by amending the Constitution to permit prayer in the public schools or to provide public support for religious schools, via vouchers or tax credits or direct aid. But they should not do so under the impression that they would thus be correcting the reading of history by a misguided Supreme Court's decisions and returning to the original and somehow unanimous intention of "the founders of the Republic" or "framers of the First Amendment." If the American people are to make such a decision they should do it on the basis of "significant truth" rather than "plausible falsehood."

Furthermore, to argue that the framers did not "intend to preclude prayer from the public schools" is a "beguiling half-truth." In 1789 "public schools" were not yet in existence in the present-day sense. Modern public education was an accomplishment that really did not begin until the 1830s and 1840s, led by such school reformers as Horace Mann and Henry Barnard. In 1789 the nearest things to tax-supported public schools were the town schools in the very New England states that still had multiple "establishments of religion." In those states it was, of course, deemed lawful for the state to promote Protestant Christian religious instruction and observances in the town schools. The *New England Primer* and later the McGuffey readers certainly taught generations of children to pray in the public schools, but by the 1840s Roman Catholics and others were objecting to such prayers in the public schools because they promoted Protestant sectarian and denominational doctrines.

Thus began the process of trying to design common public schools that could serve all the people, yet not infringe on the "equal rights of conscience" that Jefferson and Madison maintained so stoutly.[72] By and large, it has been decided in the states and in the Supreme Court that the equal rights of conscience can best be served by the public schools refraining from promoting such religious activities as Bible-reading and prayers. Those who would appeal to "the founders and framers" on behalf of restoring religion to the public schools should be careful about which founders they call to witness. Some of the framers were more committed to religious freedom than to evangelism and proselytism.

Madison and his liberal colleagues in the House and in the states won the debates of 1789-91; and since 1947 the Supreme Court, by and large, has correctly interpreted their intentions. The question is whether they will continue to win the debates of the 1980's, or whether their version of the First Amendment will in turn be amended or "reformed" by politicians, a judiciary, and a citizenry who follow "beguiling half-truths" or "plausible falsehoods" rather than "significant truth."

100

My point is that the public discussion of constitutional issues raised by these different interpretations of the First Amendment should be informed by the best scholarship available. President Reagan argues that politics and morality are inseparable; and since morality's foundation is religion, religion and politics are necessarily related; and this is what the Founding Fathers believed. Echoes and re-echoes of similar moralistic views are being heard in the conservative columns of William F. Buckley, Jr., James J. Kilpatrick, and George Will and in the political and religious efforts of such fundamentalist groups as the Christian Nation Movement, the Conservative Digest, the Populist Conservative Tax Coalition, the Moral Majority, the Liberty Federation, the Christian Broadcasting Network, the American Coalition for Traditional Values, and many more.

But I would maintain that there is an overwhelming weight of academic scholarship in political and constitutional history that belies such arguments. Major examples in the 1950s and 1960s were the authoritative works of Anson Phelps Stokes, Leo Pfeffer, and Herman Pritchett.

Since those early works, I think it is fair to say that the predominant stream of constitutional, legal, and historical scholarship has continued to point to the broader, separatist and secular meaning of the First Amendment as over against the narrower, cooperationist, or accommodationist meaning.[73] There is no way for a non-specialist to encompass the vast literature on this subject, but a valuable and readily available source of evidence is the publication, *this Constitution*, issued quarterly since 1983, by Project 87, jointly sponsored by the American Political Science Association and the American Historical Association. Note especially articles by Gordon S. Wood of Brown, Richard B. Morris of Columbia, James MacGregor Burns of Williams, Michael Kammen of Cornell, Paul L. Murphy of Minnesota, A.E. Dick Howard of Virginia, Donald S. Lutz of Houston, Thomas L. Pangle of Toronto, Rogers M. Smith of Yale, and Robert S. Alley of The University of Richmond.

For example, Professor Lutz reminds us that the Preamble to the Constitution "encapsulates and reflects the various sources of, and influences upon, our constitutional tradition." These include not only the religiously oriented covenants and compacts of the early seventeenth century but also the eighteenth century political thought of English Commonwealth radicals, the Renaissance classical humanists who harkened back to Greek and Roman republicanism, and the rationalist Enlightenment thought on natural rights and the social contract of Hobbes, Locke, Hume, and Montesquieu. Thus, the federal Constitution removed the emphasis on Biblical sources, God's dispensation, and "the moralistic stance with respect to politics" that marked several of the state constitutions of the 1770s and 1780s.[74] Similarly, Professor Pangle says, "The authors of *The Federalist* remain almost totally silent about "awe for the divine." Instead, they refer

repeatedly to the civic virtue of "moderation" by which they mean "calm and prudent calculation of self-interest that serves to temper fanaticism including excessive zeal for religion and for moral virtue."[75]

Rogers M. Smith carefully identifies three basic conceptions or "ideal types" of American citizenship which have struggled for predominance: the liberal conception that came from the 19th century Enlightenment stressing freedom and equality; the republican conception of 17th and 18th century revolutionaries who echoed classical proponents of political participation and civic virtue; and the nativist conception that grew primarily in the 19th and 20th century as white European Protestant males reacted against ethnic, religious, and cultural diversity.[76] Robert S. Alley said, "Until his death in 1836 James Madison believed that the nation supported his commitment to total and complete separation of church and state."[77]

In addition to the accumulated scholarly documentation during the past 30 years regarding the meaning of the First Amendment in general, the most recent and authoritative research on the establishment clause itself is that of Leonard W. Levy, who is Andrew W. Mellon All-Claremont Professor of Humanities and chairman of the Claremont Graduate Faculty of History. Levy is the editor of a dozen books on constitutional history and of the recent four-volume *Encyclopedia of the American Constitution* published by Macmillan and author of a dozen books on the Constitution, especially the Bill of Rights.

I am particularly pleased to find that his research validates and is fully consonant with my own earlier studies. He presents convincing documentary evidence that the framers' prohibition of the broader meaning of establishment is historically more accurate than the narrow prohibition claimed by O'Neill, Malbin, and Cord.

He recognizes, as I do, that the historical "intentions" are more debatable than extreme partisans of the narrow or the broad views of the establishment clause would have us believe, but the "preponderance of evidence indicates that the Supreme Court's [broader] interpretation is historically the more accurate."[78]

Now, in his book on the First Amendment's establishment clause itself, Levy has marshalled massive documentary evidence from primary sources and from unexceptionable scholarly studies of the past 20 years. These sources, cited in 30 pages of endnotes and an annotated bibliography, lead Levy to a conclusion with which I fully agree and which I tried to substantiate with the relatively meager historiographical resources I had at my disposal 40 years ago. Levy sums up the meaning of "an establishment of religion" as follows:

> After the American Revolution seven of the fourteen states that comprised the Union in 1791 authorized establishments of religion by law. Not one state maintained a single or preferential establishment of religion. An establishment of religion meant to those who framed and ratified the First Amendment what it meant in those seven states, and in all seven it meant public support of religion on a nonpreferential basis. It was specifically this support on a nonpreferential basis that the establishment clause of the First Amendment sought to forbid.[79]

Levy deals at length with the histories of each of the six original states (plus Vermont admitted in 1791) that had originally authorized single establishments, but had been forced to make concessions to the growing sentiment against any kind of establishment. This took many forms of compromise, all of which moved from single establishment to multiple establishment:

> The evidence relating to each of the six proves that, while it lasted, an establishment of religion was not restricted in meaning to a state church or to a system of public support of one sect alone; instead, an establishment of religion meant public support of several or all churches, with preference to none.[80]

Levy notes how imprecise and how inadequate many of the original sources are and how difficult it is to draw exact or simple conclusions. He cites the complexity of the issues involved in the separation of church and state and recognizes the important exception of tax exemption for churches. But he also demolishes the attempt by various authors to try to prove that exceptions were the rule; e.g., that Madison had a narrow view of the establishment clause because he issued proclamations recommending observance of Thanksgiving (which Jefferson refused to do) or that Madison was on a committee that recommended the appointment of chaplains (which Madison later said he was opposed to).

Levy explicitly deals with these and similar arguments advanced by Robert Cord and others that some of the state ratifying conventions urged an amendment prohibiting a single establishment of religion at the federal level. He shows that this reflected the language used by aggressive Anti-Federalists in those states, who feared a strong national government. The language did not represent the practice in the states where establishments were still authorized. He reminds us that when Congress in 1789 reenacted the Northwest Ordinance of 1787, into which Massachusetts promoters had injected provisions for land grants to aid religion, these provisions were deleted.

Levy urges both the extremists of absolute separation and of aggressive, activist accommodation to adopt more moderate views toward those less

important issues that require litigation over creches in the public square, posting of the Ten Commandments in schoolrooms, or a moment of genuine silence in the public schools. He reemphasizes the legal maxim that the law should not concern itself with trifles and aptly jests, "Let sleeping dogmas lie." But above all, he underscores the inconsistency of conservatives who would reduce government support of domestic public services but would increase the power of government to support religion with government funds.

I agree with Levy's history and his plea for moderation, but the important goals for the future of public education and its civic mission must not be forgotten. Acceptance of a narrow, accommodationist view of the history of the establishment clause should not be allowed to be turned into public policies that serve to increase public support for religious schools in the form of vouchers or tax credits, or otherwise aid the extremes of parental choice; or to increase the role of religion in public schools in the form of organized prayer, teaching of Creationism, "throwing out" of textbooks on the basis of their "secular humanism," or "opting out" of required studies in citizenship on the grounds that they offend any sincerely held religious belief.

From the time President Reagan advocated the adoption of a constitutional amendment to permit organized prayer in public schools in May 1982 Congress has been bitterly divided over repeated efforts to pass legislation aimed either at amending the Constitution or stripping the Supreme Court and the federal courts of jurisdiction in deciding cases of school prayer in the public schools. Similar debates and controversies have arisen over efforts of the Reagan Administration to promote tuition tax credits and vouchers that would give public financial aid to parents who send their children to private religious schools.

This contest has been fueled especially since 1984, not only by powerful voices from President Reagan in the White House itself but also by the Justice Department led by Attorney General Edwin Meese III, the Department of Education under Secretary William J. Bennett, the Republican-controlled Senate Judiciary Committee led by Senators Strom Thurmond and Orrin Hatch, and from a divided Supreme Court itself.

The complexities and details of this contest cannot be followed here, but it was symbolized in the summer and fall of 1986 when fundamentalist Christian parents in Tennessee and Alabama brought suit in federal courts for relief from a public school curriculum whose textbooks they claimed violated their religious beliefs because of the "secular humanist" values being purveyed in the books.

In October 1986 Federal Judge Thomas G. Hull in the Tennessee Eastern District decided that the children of fundamentalist Christian families need

not be required to study the Holt, Rinehart and Winston readers, because they were offensive to their conscientiously held religious beliefs:

> The plaintiffs believe that, after reading the entire Holt series, a child might adopt the views of a feminist, a humanist, a pacifist, an anti-Christian, a vegetarian, or an advocate of a "one-world government."
>
> Plaintiffs sincerely believe that the repetitive affirmation of these philosophical viewpoints is repulsive to the Christian faith--so repulsive that they must not allow their children to be exposed to the Holt Series . . .

The judge conceded that the state has a compelling interest in providing schools for education in citizenship, but

> . . . the Court must decide whether the state can achieve literacy and good citizenship for all students without forcing them to read the Holt series.
>
> It seems obvious that this question must be answered in the affirmative.
>
> . . . the Court must also find that no compelling state interest justifies the burden on the plaintiffs and that the state's interests can be served by less restrictive means.[81]

Among those means were "opting out" of the school district's reading program whenever offensive books are being studied. Children may receive instruction by parents at home, so long as they meet standardized testing requirements. Although the judge declared that this is to be a narrow case applying only to the families bringing the suit, it was widely agreed that appeals to higher courts would ensue and a rash of similar cases could break out in many parts of the country.

In fact, a three-judge panel of the 6th Circuit Court of Appeals unanimously reversed Judge Hull's decision on August 24, 1987; and the parents appealed to the full 15-judge Court of Appeals in October 1987, with the help of the National Legal Foundation of Virginia Beach, Virginia, founded by Pat Robertson, but on February 22, 1988 the Supreme Court let stand the ruling against Judge Hull.

Meanwhile, in October 1986 another case involving fundamentalist Christian parents was in the process of decision by Federal Judge Brevard Hand in Mobile, Alabama, whose sympathies for the parents had already been expressed in his earlier decision allowing prayer in the public schools, a decision overturned by the Supreme Court as we have seen. In this case,

the parents were asking for books that teach "secular humanism" to be removed from the Mobile schools curriculum on the grounds that secular humanism is actually a religion, and thus its teaching must be banned along with Christianity, Islam, and Judaism. Concerned Women for America were aiding the parents; People for the American Way were opposing.

In a decision on March 4, 1987 Judge Hand decided for the parents, agreeing that 46 textbooks approved by the Alabama State Board of Education be removed from all the schools of the state or that certain parts of some of the books be removed. His list included seven home economics books, nine history books, and thirty elementary school social studies books. The publishers included Ginn, McGraw-Hill, Scott, Foresman, Macmillan, Holt, Rinehart and Winston, Harcourt, Brace Jovanovich, Houghton Mifflin, and Rand McNally among others.[82]

Judge Hand proclaimed that the case was not a matter of censorship by narrow-minded proreligionists who deemed the books undesirable, improper, or immoral. It was simply a matter of prohibiting the religious beliefs of secular humanism from being taught in violation of the establishment clause of the First Amendment. Judge Hand accepted testimony that secular humanism was a belief system making statements based on faith assumptions amounting to a religion and therefore must be prohibited. In addition, the systematic omission of references to the role of the Christian religion in the history books amounted to indoctrination of irreligious beliefs and thus discrimination against religion, also prohibited by the First Amendment.

When the Court of Appeals of the 11th Circuit reversed Judge Hand's decision, it seemed likely that either or both of these cases would be appealed and possibly reach the Supreme Court, now headed by Chief Justice Rehnquist who had approved Judge Hand's earlier decision in the prayer case and absent retired Justice Lewis Powell who had joined in overthrowing it.[83]

If the "opt out" case and the "throw out" case regarding textbooks should be upheld, we could arrive at the ultimate elevation of parental choice and the virtual disappearance of an academic or professional role in formulating the curriculum for civic education in public schools.

If parents can opt out of what academics and professionals propose and public authorities approve, or if courts can throw out what academics and professionals propose and public authorities approve, what standards of excellence or achievement can be expected? From what source comes a common core of studies, of civic discourse, of civic values? One can argue, as many have done, that some or all of the textbooks in these cases reflected shoddy scholarship and deserved to be opted out or thrown out.

But that was not the basis on which they were attacked and removed from study.

Even the question of scholarship was not fully settled, despite the Supreme Court's decision by 7-2 on June 19, 1987 striking down Louisiana's law requiring equal time for the teaching of creationist science whenever evolution is taught in the schools.[84] Justice William J. Brennan's decision for the Court called the law an effort to bring religious doctrines into the schools under the heading of a sham creation science. But Chief Justice Rehnquist and newly-appointed Associate Justice Antonin Scalia dissented, and who knows how persuasive they may be for Anthony M. Kennedy, the newest appointee replacing Justice Powell, and perhaps for some of the others?

These cases, as in so many other instances, ranged such organizations as the American Civil Liberties Union and People for the American Way on one side and such organizations as Concerned Women of America and the Freedom Council Foundation (established by the television evangelist, Pat Robertson) on the other side. They involve complex constitutional questions relating to religion, education, and the First and Fourteenth Amendments, but they also involve complex questions of public policy for educators, legislators, parents, and school officials. How are the schools and textbook publishers going to respond when both sides profess belief in and commitment to basic "American values?"

Practices that promote religion by opting out or throwing out textbooks, by "praying in" at public schools, or by "cashing in" vouchers for religious schools not only violate good public policy, but they offend the major thrust toward separation of church and state which, with minor exceptions, marked the entire careers of Madison and Jefferson. The most succinct summary of their views that I have seen recently is that by William Lee Miller, professor of religious studies at the University of Virginia:

> Did "religious freedom" for Jefferson and Madison extend to atheists? Yes. To agnostics, unbelievers, and pagans? Yes. To heretics and blasphemers and the sacrilegious? Yes. To "the Jew and the Gentile, the Christian and Mohametan, the Hindoo, and infidel of every denomination"? Yes. To people who want freedom from religion? Yes. To people who want freedom against religion? Yes. . . .
>
> Did this liberty of belief for Jefferson and Madison entail separation of church and state? Yes. A ban on tax aid to religion? Yes. On state help to religion? Yes. Even religion-in-general? Yes. Even if it were extended without any favoritism among religious groups? Yes. The completely voluntary way in religion? Yes.

> Did all the founders agree with Jefferson and Madison? Certainly not. Otherwise there wouldn't have been a fight.[85]

And the fight not only continues, it seems to be intensifying on many fronts. For example, the question of prayer in public schools does not remain settled. The Supreme Court found Alabama's law authorizing a moment of silence or voluntary prayer or meditation to be motivated by religious purposes and thus unconstitutional. But what about New Jersey's law of 1982, which contains no mention of prayer, but simply mentions a one-minute period of silence to be used solely at the discretion of the individual student "for quiet and private contemplation or introspection"? Lower courts held the law to be unconstitutional because it was motivated by a desire to inject prayer into the in public schools. The case on appeal was argued in the 1987 fall term of the Supreme Court, this time under the close scrutiny of one or two new justices of conservative persuasion whose votes could reverse the lower courts, as the Justice Department's brief of April 1987 argued should be done.[86] It is estimated that some form of "moment of silence" laws has been passed in 25 states, but their constitutionality has not been finally decided.

So, it behooves the educational profession to study these issues in depth, to consider the best historical scholarship available, and to judge present issues of religion and education accordingly. Unless the profession and the public together alert themselves this time to the need for a "history and civics lesson" about the First Amendment on religion and education, we may find the realm of public education narrowing and disintegrating under a massive conservative counter-reformation that seeks to reverse 40 years of liberal jurisprudence. We may witness the effort to excommunicate the doctrine of separation of church and state and condemn it as a heresy perpetrated by an erring Supreme court, which must be taught to dance to the true tune of "original intent" being orchestrated by Attorney General Meese and Chief Justice Rehnquist. This was one of the constitutional questions at issue in the confirmation hearings on Judge Bork. In the words of David G. Savage of the *Los Angeles Times*, "Will the Center Hold?"[87]

Now, as we continue our commemoration of the Bicentennial of the Constitution, let us not forget the importance of history as well as civics in improving the role of education in preparing youth for citizenship. The history and civics lessons should go together. I suggest these civics lessons from history.

Citizenship is Based on Civic Not Religious Values

All in all, I think it is fair to say that the predominant stream of constitutional, legal, and historical scholarship points to the liberal, separatist, and secular meaning of the First Amendment as over against the conservative, "cooperationist," or "accommodationist" meaning, much as the weight of

scientific and academic scholarship points to the theory of evolution as over against "scientific creationism."

Beliefs about the proper relationships among religion, morality, and citizenship have always been very complicated, often in conflict. Religious zealotry, even fanaticism, as well as religious liberty have appeared and reappeared throughout American history. There are no easy or simple generalizations, but the overall trend of 300 years has been toward delimiting and then removing religious belief and practice as tests for good citizenship.[88] The Constitution and Bill of Rights were framed in the midst of this process of secularizing and redefining the meaning of citizenship for the new nation, basing it on civic values rather than religious values.

The framers were not all of one mind about religion, character, and citizenship. Some came from the six states whose constitutions ordained Christianity in general or Protestant Christianity in particular as the established religion of the state and thus gave public support to all the denominations thereof. Others came from the seven states that had already disestablished their churches or never had legally authorized any. While several state constitutions were originally couched in highly moralistic or religious terms, the Constitution, the *Federalist Papers*, and the Bill of Rights were not. In the Congressional debates over the First Amendment, Madison's liberal views won out over conservatives who approved state support for religion.

There is no way that the non-specialist can encompass the vast accumulation of scholarship in constitutional history and law. Yet, there is now easily available a most useful compilation of primary sources bearing on the origins of the Constitution and Bill of Rights, edited by Philip B. Kurland and Ralph Lerner, two noted scholars at the University of Chicago, and entitled *The Founders' Constitution*. Volume 5 is devoted to the Bill of Rights, its background in the state constitutions and debates over ratification; and of particular interest here are the 69 primary documents revealing the historical context of the religious clauses of the First Amendment dating from the 1630s to the 1830s.[89] In reviewing the volumes, Paul A. Freund, distinguished professor of jurisprudence of Harvard Law School and himself an editor of a projected 11 volume history of the Supreme Court, made the point succinctly:

> The Constitution, however it is approached, presents a series of double aspects. It is at once the supreme law of the land, secular and coercive, and a symbol of our common ideals, an icon, some would say, of a civic religion . . . .[90]

> Through their scholarship and large-mindedness, Mr. Kurland and Mr. Lerner have laid before us a rich legacy of thought that will help us understand the origins, the historic "meaning" in the

fullest senses, of our basic charter. Their book is a singularly valuable offering in this bicentennial year.[91]

There Are No Easy Answers

The urge to promote explicit civic values or character values in the schools intensifies in times of perceived national crisis or dangerous social change. It takes on special urgency when the need for social cohesion and unity is seen to be particularly acute. For example, liberal reformers sought to mobilize diverse groups to work together to achieve (in historian Robert Wiebe's terms) "a new social integration, a higher form of social harmony" as in the Revolutionary Era, the early Reconstruction, the Progressive Era, the New Deal, and the New Frontier/Great Society.[92]

At other times, conservative reformers sought social cohesion by aggressively reasserting their cherished traditional, moral, or religious values as a means of combatting threats from sources they perceived to be alien or subversive as in the Protestant "counter-reformation" of the early 19th century, recurring nativist xenophobia over massive immigration in the 19th and 20th centuries, the "reactionary impulse" to counteract the radicalism loosed by world wars or cold wars in the 20th century, and recent campaigns against personal lifestyles that weaken the traditional family.

Schools and educators have often been caught in the crossfire between such contending forces, as I hope prior chapters have demonstrated. No wonder that many administrators and teachers prefer to try to ignore both kinds of claims and concentrate on academic basics or job preparation through science, mathematics, or computer technology. This reminds us that the achievement of either citizenship or character values is made more difficult not only because of persisting cultural pluralisms of race, religion, language, and ethnicity, but also because of pervasive changes in industrial and urban society, in the economy and workplace, in the family, and in the whole paraphernalia of technology and modernization. General lesson: there are no easy, simplistic lessons to be learned from the appeal to history or to the Constitution.

A Defensible Conception of Citizenship Is Needed

The continuing controversies over religion and education, so prominent in recent politics, are only samples of the kinds of public issues that require fundamental analysis and discussion throughout the country. In a recent volume from the Smithsonian Press, I make the point this way:

> We should try to develop an intellectual framework about civic values by means of which citizens may better judge the policies put forward by business or labor groups, political parties, religious groups, or other special interest groups. I believe that the primary

> focus of schools should be on the civic values that pertain to the public life of the political community and not on the private values of religious belief or personal lifestyles that individuals and groups should be free to choose but not impose on others, especially not by legislation or government regulation.
>
> I believe that the educational profession should reaffirm the priority of its historic mandate to educate for citizenship and to do so by promoting the most careful scholarly study of the basic historic concepts, principles, and values underlying the constitutional order about which there has been controversy since the Constitutional Convention of 1787, and by giving fair treatment to conflicting views as revealed in current controversies over the function of government and the meaning of constitutional principles today.
>
> I have in mind the ideas and values on which our institutions of self-government presumably rest: those ideas that promote cohesion and unity in a democratic political community--justice, equality, legitimate authority, civic participation, and personal obligation for the public good; and those ideas that promote pluralism and individualism in a democratic political community--freedom, diversity, privacy, due process, and human rights. There is tension, sometimes conflict, between these sets of ideas. But I believe that schools should try to promote a realistic understanding of their meaning in the past and in the present, in theory and in practice.[93]

To be prepared to undertake this formidable but necessary task, the public and the teaching profession need to work together to formulate and promote a serious and sustained education in civic learning if they are to be able to separate the chaff of rhetoric from the grain of reality and thus contribute to the enduring health of the body politic. A renaissance of the civic sense of community through the appeal to history and to the Constitution is especially urgent and timely as we grapple with the persistent, fractious policies of religion, education, and the First Amendment. By all means, let us heed the former Chief Justice's call to make the Bicentennial period a reinvigorated history and civics lesson for us all.

Virtually all assessments conducted in recent years attest to the deficiency of knowledge about the Constitution among most American citizens. For example, in 1987 a Hearst poll of adults and a field test of high school students conducted by the Center for Civic Education underlined the need for more knowledge and better understanding among both groups.[94] Both surveys attempted to probe ideas and concepts underlying the Constitution rather than simple identification of facts or phrases.

In response to a query from *The New York Times* concerning "What Children Should Know" about the Constitution, two Supreme Court justices replied in similar vein, despite their often differing judicial opinions. Justice Sandra Day O'Connor said:

> Our Constitution was not intended solely, or even primarily for judges. The strength of our systems of government and of our freedoms depends on how firmly they stand in the hearts of our citizens . . . .
>
> . . . . But our understanding today must go beyond the recognition that "liberty lies in [our] hearts" to the further recognition that only citizens with knowledge about the content and meaning of our constitutional guarantees of liberty are likely to cherish those concepts . . . . Without an educational structure which fosters and encourages each successive group of students to learn about the structure of our government and the history of its development, we would soon see young hearts barren of those sentiments and understandings out of which our nation came into existence. To fulfill our obligations as citizens, to understand and uphold our Constitution, we must have educational institutions which foster the acceptance of the individual responsibility of citizenship which each of us must bear.[95]

Justice William J. Brennan, Jr. said:

> Students should leave high school aware that the Constitution and the Bill of Rights constitute the raw material of a government under the Rule of Law, a set of principles protecting human dignity which must be understood, grappled with, fought for and constantly reassessed and applied under fire. The challenge to students is to further the values the protection of which underlies our whole concept of ordered liberty. Those values implicate both sides of the coin--not just the rights but also the reciprocal responsibilities.[96]

Such views typified the growing bipartisan support for study of the Constitution in the schools. This took many forms under many auspices, a few of which I have mentioned. To cite again the one with which I am most familiar, the director of the National Bicentennial Competition, Charles N. Quigley, announced early in February 1988 that its 11th grade constitutional materials had been used by more than 6,000 teachers and had reached well over 300,000 students in the first year of the Competition, which had been held in 423 of the 450 Congressional Districts. The numbers involved will be multiplied in successive years as materials for 8th and 5th grade students become available.

Official endorsements by state departments of education and other public bodies are undoubtedly useful. For example, the California State Board of Education passed such a resolution of endorsement at its meeting of April 9-10, 1987, affirming that the Competition instructional materials were "totally compatible with the State Social Studies Framework and are appropriate for use in United States History and Government classes in California schools."[97]

It is difficult to measure accurately the specific influence of such endorsements. Perhaps the influence is even more direct over a longer period of time when the state officials in charge of curriculum development also take actions to promote the program in their jurisdictions. Such was the case in the New York State Education Department where Michael G. Fischer, associate in the Bureau of Social Studies, was also state coordinator for the Bicentennial Competition, strongly supported by Donald H. Bragaw, long time chief of the Bureau of Social Studies Education.

To make matters still better, the first of six historical units in the year-long required course on U.S. History and Government at the 11th grade is entitled "Constitutional Foundations for the United States Democratic Republic."[98] This unit and the Regents' examinations based on it assure that the Constitution will gain early and sustained attention of teachers and students alike. In fact, the whole course treats the "Thirteen Enduring Constitutional Issues" identified by Project '87 as recurring "Main Ideas" in its chronological approach to history and government. If teachers develop their courses in this way, the civic and constitutional themes will not get lost in the chronology, but may even give life and vitality to the chronology by linking the past to the present and showing that Constitutional matters were not finished on September 17, 1787 or even in December 1791.

Chapter 3

Underlying All Else: A Defensible Conception of Citizenship

The subject of this chapter can be anticipated by ringing the changes on a phrase that has haunted the United States from Watergate to Iran-Contragate. What do students and teachers know about being a citizen--and when do they know it? Or, better perhaps, to paraphrase the refrain that echoed throughout the Carnegie Forum Task Force Report--What do students and teachers need to know about citizenship and what should they be able to do about it?[1]

In foregoing chapters, I have tried to summarize some of the answers that have been given to these questions. From the mid-1970s to the early 1980s the various movements for law-related education have led the efforts to revivify civic education. But the excellence movement largely ignored civic education in favor of academic achievement, while contingent efforts were made to preempt public attention for technological literacy, or consumer sovereignty and family choice, or traditional moral, ethical, or religious values. Then, in the mid-1980s the gathering momentum to commemorate the Bicentennial of the Constitution refocused attention on civic education and gave a new thrust to the study of history, civics, and government, especially as they teach about the origins and interpretations of the Constitution itself. Excellent new materials to these ends have been developed. (See Notes 4 and 5 in Chapter 2.)

But what is still missing is a broad scale effort to develop a coherent, persuasive and scholarly-based conception of citizenship upon which further long range programs of civic education can rest. Underlying all else is the need to formulate a conception of democratic citizenship that will embody the best of our traditional civic values and respond to the vast complexities of the end of the twentieth and beginning of the twenty-first century. A spelling out of the civic values fundamental to the theory and practice of democratic citizenship could become the major themes in the common core of study in American schools and colleges. If there is to be a national certification of teachers, such study of citizenship should become a major part of it.

Citizenship education has a better chance of succeeding in public schools if they emphasize the civic values that bind us together and that we share in common no matter what religious, ethnic, or cultural ties may legitimately divide us. We should try to take account of the dynamism inhering in the calls for moral education, character education, and, yes, the calls for

teaching about religion. But I believe that this should be done by redirecting these movements into the study of citizenship, a study that becomes a common core of the curriculum, that rests on a scholarly approach to moral and civic values, and that provides a meeting ground for the diversity of beliefs and outlooks genuinely held by the plurality of our religious, ethnic and linguistic communities. To these ends I suggest an agenda comprising (1) the idea of citizenship in historical perspective and (2) the core of civic values that are fundamental to democratic citizenship in modern America, all deserving careful study by students and teachers alike.

Fortunately, in the past decade a remarkable body of scholarship in political science, history, philosophy, and law have been produced centering on the idea of citizenship. I cannot possibly review or summarize this successfully. All I can do is mention two or three highlights that I believe are especially significant for a promising agenda in civic education devoted to the idea of citizenship. They all reflected a growing concern for the normative role of the academic disciplines in the humanities and the social sciences; they all received support from the National Endowment for the Humanities; and the American Political Science Association was involved in all three.

The first, a project on "Education in the Ethical Issues of Political Life," was designed to enable political science faculty members to meet in seminars for discussion of such issues as equality, political participation, and the public interest. Several monographs were issued in 1977 and 1978 designed primarily to enhance instruction about ethical and philosophical concepts in college undergraduate courses in politics.[2]

A second project of faculty seminars sponsored by the NEH and APSA was even more directly focused on the theme of citizenship. It was a project on "Ethical Issues: Citizenship and Political Education," and resulted in two extremely interesting papers addressed to teachers of political science. In one of the reports Richard Flathman of Johns Hopkins addressed the question of citizenship and authority by distinguishing between the normative classical views of "high citizenship" and the modern empirical, behavioral views of such political scientists as Seymour Martin Lipset, Bernard Berelson, and Robert Dahl. Flathman characterizes their views as a "withdrawalism" from the classical ideal, which they regard as irrelevant and unattainable in modern society. Thus, they argue for investigating the realities of politics and political behavior today and abandoning the normative objectives and commitments of the "high" ideal of citizenship.[3]

Flathman himself argues for a "chastened view," somewhere between the high ideal and withdrawal from it. He concludes that there must be *some* shared beliefs and values if there is to be political authority in a society. If political practice does not match the ideal, then we should try to change

the practice, not abandon the ideal. And, besides, the empirical approaches do in fact rest upon some normative value assumption even if not made explicit.

The normative view reasserts the importance of studying the value questions raised by the "high ideal" of citizenship in the classical tradition of Pericles, Aristotle, and Rousseau, in which citizenship is defined as a high, if not the highest, moral and political role for human beings, a distinctive role based on justice, freedom, equality and participation. Among the recent political philosophers who seek to revitalize such studies are Hannah Arendt, Benjamin R. Barber, Carole Pateman, Dennis F. Thompson, John Rawls, and Michael Walzer.[4] One could add others in political and economic theory like Michael J. Sandel, Ronald Beiner, and Albert O. Hirschman.[5] And in sociology the normative values of democratic citizenship are touched upon from a variety of ideological positions by Amitai Etzioni, Robert Bellah, Morris Janowitz, and Manfred Stanley.[6]

The other paper issued by the project on ethical issues in citizenship and political education focused on "Rights and Citizenship" to complement Flathman's paper on authority and responsibility. Written by J. Roland Pennock, emeritus professor at Swarthmore, it is not only very useful but it makes a point at the outset that I would like to underline:

> Although it [this paper] contains little directly dealing with how to go about the education of citizens, it does embody material that would be desirable for citizens to know and to understand.[7]

It is indeed desirable for citizens to know and understand such material, but it is now even more desirable and urgent that scholars and educators alike begin to deal more explicitly with how to go about the training of the teachers who will teach the future citizens.

A third recent project, which did begin to give attention to the educational issues as well as the substantive knowledge about citizenship, is Project '87, jointly sponsored by the APSA and the American Historical Association. Its quarterly publication, *this Constitution*, begun in September 1983, contains a veritable gold mine of scholarly articles dealing at large with "thirteen enduring constitutional issues" but also many dealing more specifically with the idea of citizenship revealed in our constitutional history and practice. I think especially of articles by James McGregor Burns and Richard B. Morris, co-chairs for APSA and AHA, respectively, Gordon S. Wood, Donald S. Lutz, Paul L. Murphy, A.E. Dick Howard, Jack N. Rakove, Howard N. Meyer, Thomas L. Pangle, Jack P. Greene, Roger M. Smith, Kenneth M. Holland, and Robert S. Alley.[8]

There is much, much more in the developing periodical scholarship of the past decade that could be cited to indicate the normative concern in the

several academic disciplines,[9] but I cannot possibly encompass it, let alone deal with it. All I can do is refer very briefly to the "high ideal" of citizenship that had so much influence on the American past and then mention a few key references as I deal in Chapter 4 with the table of twelve civic values that I am advocating as fundamental to education for American citizenship today and in the future.

A. The High Ideal of Citizenship in a Republic

Those of us born and brought up in modern nation-states are likely to think that citizenship is "natural" and something to be taken for granted. But those who have been born in one country and have immigrated to another to become "naturalized" citizens and especially those who are prevented from emigrating are not nearly so likely to take citizenship for granted. And those who are "stateless" or who are denied full citizenship in the countries of their birth know only too well the handicaps, if not the terrors, of having little or no citizenship at all in a world made up of nation-states. I begin, then, with a reminder about the origin of the idea of citizenship in a republic, which long antedated the modern nation-state but which is now tightly bound up with it.

The idea of republican citizenship was forged in two major formative periods. The first formulation occurred during the rise and fall of the Greek city-states from roughly the seventh to the fourth centuries B.C. and was developed further in the Roman Republic from the fifth to first centuries B.C. The second took place in connection with the growth of the modern nation-states in the revolutionary era of Western Europe and America from the seventeenth to the nineteenth centuries. We in the United States are inheritors of both periods. The founders of the American Republic not only drew heavily upon both the Graeco-Roman tradition of citizenship and the Western European, but made significant contributions of their own to the idea of democratic citizenship. As the twentieth century draws to a close, it is clear that we are in a third formative period when the idea of citizenship will again need to be reformulated to take account of the dramatically changed world situation, which the men of the eighteenth century could not foresee.

Two main points about the origin of the idea of citizenship are: (1) citizenship came to be based on membership in a political community regulated by man-made laws rather than on membership in a family, clan, or tribe arising from kinship, religion, ethnic background, or inherited status; and (2) the predominant view of citizenship in fifth century Athens was that citizenship meant that the laws were made, administered, and judged by free citizens who were both rulers and ruled, not merely "subjects" of a king or priest who made or revealed the laws. In the first case, citizenship entailed rights and responsibilities conferred by law (achieved status) in contrast to roles and obligations conferred by inherited class, kinship, or

sex (ascribed status). In the second case the free citizens became members of a democratic or republican political community in which the citizen class participated actively in the affairs of the state.

The significant fact about the rise of the Greek city-states from the seventh to the fifth century B.C. was that authority for governing, for maintaining social order, and for administering justice was transferred from household patriarchs, tribal chiefs, military nobles, literate priesthoods, or hereditary kings to the political community centering in the city-state (polis or polity). While some of the outward forms and terminology of tribe and clan were often kept for the sake of ethnic pride, the Greek polis dropped the essentially ascriptive characteristics of kinship ties typical of traditional folk societies and established citizenship in the polity as the overarching tie of unity that bound the community together. The bonds of sentiment and loyalty to the territorial state became the primary forms of social cohesion, superior to family or kin, class or caste, or any kind of voluntary association. The key personality in this fundamental change was the powerful Athenian statesman, Cleisthenes, whose political reforms apparently were affected in the last decade of the sixth century B.C.

This transfer of legitimate authority from kinship lineage to polity is nicely described by Robert Nisbet, Schweitzer Professor Emeritus of the Humanities at Columbia:

> What we see, therefore, taking place with revolutionary suddenness and sweep is a total transformation of a social system. Instead of the traditional, kinship-based pluralism of Athenian authority, there is now a monolithic unit that arises from a governmental system reaching directly down to the individual citizen. Instead of a system of law based upon immemorial tradition, its interpretation subject to the elders of kinship society and always slow and uncertain, we have now a system of Athenian law that is prescriptive, that is made, rather than merely interpreted out of tradition, and that is deemed binding upon all Athenians irrespective of kinship lineage. We see, too, a growing commonality of all Athenians, one that did not and could not exist so long as the sense of community rose primarily from the fact of generation, through tribe or clan,, And finally, there is in the new Athens a manifest individualism, sprung from the fact that henceforth the individual, not the kinship group, was the irreducible and unalterable unit of the Athenian military-political system.[10]

While Nisbet is pleased to refer to the new polity as a "monolithic unity," the rise and decline of the Greek polis from 800 to 300 B.C. would scarcely justify universal application of such a description, especially for Athens. In the seventh century, independent farmers were drawn into the rolls of citizens to fill the ranks of infantrymen alongside the mounted cavalrymen

of nobles. And under Cleisthenes propertyless artisans and sailors in the mercantile and military navy also gained citizenship. These trends provided a broader base of citizenship in Athens than in many other Greek polities, leading to its boast of becoming a democracy. And the florescence of drama, art, architecture, literature, and philosophy that was the glory of fifth century Athens both sprang from and centered upon the polis as the symbol and culmination of a citizen's fulfillment.

A classic statement of the high ideal of citizenship was expressed by Pericles in his funeral oration in the first year of the Peloponnesian War in 431 B.C. While it was indeed an idealized version, nevertheless it laid claims upon the loyalties and commitments of Athenians similar to those that Lincoln's address on the battlefield of Gettysburg came to have for Americans:

> Our constitution. . . favors the many instead of the few; this is why it is called a democracy. If we look to the laws, they afford equal justice to all in their private differences; if to social standing, advancement in public life falls to reputation for capacity, class considerations not being allowed to interfere with merit; nor again does poverty bar the way, if a man is able to serve the state, he is not hindered by the obscurity of his condition. The freedom which we enjoy in our government extends also to our ordinary life. There, far from exercising a jealous surveillance over each other, we do not feel called upon to be angry with our neighbor for doing what he likes . . . But all this ease in our private relations does not make us lawless as citizens . . We throw open our city to the world, and never by alien acts exclude foreigners from any opportunity of learning or observing, although the eyes of an enemy may occasionally profit by our liberality . . .
>
> Our public men have, besides politics, their private affairs to attend to, and our ordinary citizens, though occupied with the pursuits of industry, are still fair judges of public matters; for, unlike any other nation, regarding him who takes no part in these duties not as unambitious but as useless, we Athenians are able to judge at all events if we cannot originate, and instead of looking on discussion as a stumbling block in the way of action, we think it an indispensable preliminary to any action at all.[11]

Here, then, was the ideal that all citizens could become "fair judges of public matters." This Periclean view of the ideal fifth century Athenian citizen as described by the historian Thucydides was destined, however, to be eclipsed in much of subsequent history by other conceptions of Greek citizenship formulated by Plato and Aristotle, both of whom wrote their influential treatises during the decline and crises besetting the Greek city-states in the fourth century B.C. After a long and exhausting war with

Sparta, the Athenian polity was weakened and eventually overcome by the Macedonian kings, Philip and Alexander. Plato attributed this decline and fall to a rampant individualism, a resurgence of traditional kinship and religious beliefs, a preoccupation with personal and private wealth, and the prejudices and ignorance of the common people (the *demos*) whose impulsive passions as citizens led to successive injustices and tyranny over the best and the brightest.

It was in this setting that Plato drew up his ideal political community in *The Republic*, but it surely was no "high" ideal of citizenship. Impressed by the discipline and military superiority of the authoritarian Spartan state in contrast to the factional rivalries of democratic Athens, Plato visualized a state which would be ruled by a class of relatively few wise, just, and well educated guardians who could subordinate their passions for the good of the state. In contrast to the Periclean ideal that each citizen would alternately work, fight, and rule, Plato argued that justice required all persons to do only that for which they were best fitted: workers to work, warriors to fight, and guardians to rule. In a loose sense, good citizenship consisted in each class doing what it was best fitted for; in a strict sense, the only genuine citizens were the aristocratic class of guardians, selected and trained by a rigorous system of state-controlled education to perform their roles as philosopher-kings. They were the only ones who could surmount the passions of the body, the confining ties of family, kinship, wealth, and religion, and grasp the genuine truth, beauty, and goodness of the real world of ideas by means of a higher education achieved through the intellectual discipline of mathematics, metaphysics, and dialectics.

Plato's vision of the aristocratic and essentially closed political community does indeed illustrate Nisbet's term "monolithic unity." Thus, it has perennial appeal to those who have wished to overcome the excessive individualism and freedom and passions of the masses of people in the interests of "higher" intellectual and moral virtues, as these are defined by the well-educated upper classes who have been privileged to contemplate and grasp the true ideas of reality that lie beyond the ebb and flow of practical experience.

But the other powerful voice that defined a classical view of citizenship was that of Aristotle whose *Politics* and *Ethics* were enormously influential in shaping the high ideal of citizenship, despite their prosaic and pedantic quality in comparison with Plato's poetic, even mystic, vision of utopia. Aristotle's views were much more pluralistic. He outlined three major forms of government, a classification that proved to be a starting point for political philosophers for some 2000 years. The government, which is the supreme authority of the state, may be in the hands of one, few, or many. Aristotle found some good in all three forms. In each case, there is a true form that unhappily may degenerate into a perversion or corrupted form.

In a true form the rulers are ruling on behalf of the common good, while in the corrupted forms the rulers are ruling on behalf of their own private interests. So the paradigm becomes:

	True Forms		**Corrupted Forms**
(Serving the public good)		(Serving the private interest of the rulers)	
One	Monarchy	Tyranny	The king
Few	Aristocracy	Oligarchy	Wealthy property owners
Many	Republic or Commonwealth	Democracy	Needy and poor

Aristotle thus did not unequivocally prefer any one of the true forms of government, but his biases generally came down on the side of aristocracy or constitutionalism. His aristocratic leanings showed when he confined citizenship to the "free man," thereby ruling out not only women, children, and slaves but also mechanics, traders, and farmers who had to work for a living and who therefore did not have the native ability or the education or the leisure to engage fully in the task of ruling. But when he spoke about the citizen class itself, Aristotle sounded very much like a constitutionalist or a republican. All citizens were equal in their political rights and responsibilities.

All citizens hold the "office of citizen." There are two kinds of office. One type has fixed terms and is determinate in length; these offices are held by the government officials who are elected or appointed to a specific office for specific functions. The other "office of citizen" is of indeterminate, indefinite, or continuous duration, applying to the duties and responsibilities that all citizens possess equally in their capacities as rulers, deciders, judges in the legislative assemblies and courts of the commonwealth. Aristotle thus clearly distinguished free and equal citizens who share in ruling the state from the "subjects" who have no voice in their government and no legal rights of redress or protection. Slaves are entirely subjected to the absolute rule of their masters, and children are subjected to the benevolent rule of their parents. In contrast, citizens engage in self-government, taking turns in ruling and being ruled by their equals:

> [The citizen's] special characteristic is that he shares in the administration of justice, and in offices. Now of offices some are discontinuous, and the same persons are not allowed to hold them twice, or can only hold them after a fixed interval; others have no limit of time--for example, the office of [juryman] or [assemblyman]. Let us, for the sake of distinction, call it "indefinite office," and we will assume that those who share in such offices

> are citizens. This is the most comprehensive definition of citizen . . . He who has the power to take part in the deliberative or judicial administration of any state is said by us to be a citizen of that state; and, speaking generally, a state is a body of citizens sufficing for the purposes of life.[12] [All Athenian citizens were members of the popular assembly throughout their adult life. The assembly had judicial as well as legislative functions.]

Despite their differences as to the essential qualities of the truly just state (Plato's more absolutistic and Aristotle's more pluralistic), they agreed on two major characteristics that I would like to stress. One was that the political community was viewed as the most important means for human fulfillment and justice. The other was that education should be a public function of the polity rather than a private preserve of family, kinship, or religious groups. On the first point, Aristotle put it this way:

> Every state is a community of some kind, and every community is established with a view to some good . . . But if all communities aim at some good, the state or political community, which is the highest of all, and which embraces all the rest, aims at good in a higher degree than any other, and at the highest good.[13]

Since the ultimate object of the state is the good life, then the citizens must be led to virtue by the inculcation of virtuous habits and rational principles:

> A city [state] can be virtuous only when the citizens who have a share in the government are virtuous, and in our state all the citizens share in the government.[14]

And how is this to be achieved? By a common public education conducted for all citizens by the state. The ideas concerning citizenship contained in the preceding quotation and in the following quotation were expressed over and over by the framers of the American republic in the late eighteenth century:

> No one will doubt that the legislator should direct his attention above all to the education of youth; for the neglect of education does harm to the constitution. The citizen should be molded to suit the form of government under which he lives. For each government has a peculiar character which originally formed and which continues to preserve it. The character of democracy creates democracy and the character of oligarchy creates oligarchy; and always the better the character, the better the government.
>
> . . . since the whole city [state] has one end [virtue], it is manifest that education should be one and the same for all, and that it

> should be public, and not private--not as at present, when every one looks after his own children separately, and gives them separate instruction of the sort which he thinks best; the training in things which are of common interest should be the same for all. Neither must we suppose that any one of the citizens belongs to himself, for they all belong to the state, and are each of them a part of the state, and the care of each part is inseparable from the care of the whole. . . .
>
> That education should be regulated by law and should be an affair of the state is not to be denied, but what should be the character of this public education, and how the young should be educated, are questions which remain to be considered.[15]

Unfortunately, Aristotle did not get around in his *Politics* to telling us what should be the proper political education for citizens beyond mentioning the usual elementary subjects taught in most city-state schools: reading and writing, gymnastics, music, and possibly drawing. It would have been interesting to see how he would have prescribed differently for the education of citizens in each of his types of government: monarchy, aristocracy, and constitutional republic. We do, however, get some insight into Aristotle's views of higher education in his *Ethics*, where he outlines the proper subjects of study for a free man, that is, a liberal education.

When it came to a higher liberal education, Aristotle the philosopher and scientist won out over Aristotle the political theorist and realist. In his *Ethics* Aristotle argued that the highest form of virtue was pure speculation. Man as knower and thinker was higher in the scale of human values than man as doer and citizen. Man's rational nature has a higher aspect and a lower. The higher consists of the intellectual virtues and the lower of the moral virtues. These moral virtues, which are the outcome of habit formation, constitute the character of persons and are molded in the earlier years of life and schooling.

The higher intellectual virtues, which are the outcomes of teaching, are also of a higher and lower type. The more noble is the theoretical reason, which aims at knowledge for its own sake, formulates the first principles that describe the unchanging reality lying behind human nature, physical nature, and the universe, and determines the truth or falsity of propositions that define the unchanging aspects of existence. The liberal studies that best aid the intellectual faculties to discover these first principles are ranked from higher to lower: theology, metaphysics, ontology, cosmology, physics, astronomy, psychology, biology, mathematics, and logic.

The lesser virtue of the intellectual faculties is the practical reason, which aims at knowledge having to do with action or conduct (prudence) or the making and producing of things (art). The practical reason thus deals with

the changeable and the variable in events as an aid to guiding human conduct and formulating rules for action. Here are the guides to the citizen through the study of politics, ethics, economics, rhetoric, and the arts.

In this preference for the theoretical studies as over against the "practical" studies Aristotle lent the weight of his influence to that of Plato in forming a Western intellectual and academic tradition that has long viewed theory as more to be valued than practice in a liberal education, truth-seeking to be a higher goal than the goals of morality and justice, and acquisition of organized knowledge to be preferred to the development of normative judgments about right and wrong.

This is one of the great ironies of the Greek tradition of philosophy as represented by Plato and Aristotle. Although both of them found the highest form of human collective life to reside in the political community rather than in traditional family, ethnic, kinship, religious, or warrior/military communities, and although both agreed that education was a prime function of the political community, neither developed a curriculum that focused on an education that would directly promote a democratic state. Plato despaired for democracy and directed his guardians to contemplate the pure reality that lies behind the rough and tumble of practical affairs. Aristotle found more of value in republican government, but he too came down on the side of scientific knowledge and theoretical speculation as more noble than moral and practical reason.

Perhaps this is to be expected of philosophers and scientists whose views of the just and authoritative political community have little place for freedom and none for equality, except within very limited and circumscribed conditions. Both thought of citizenship as belonging to a small minority of persons resting on the backs of large populations of workers, aliens, and slaves. The mainstream of the Western intellectual traditional found this tradition to be very largely congenial until the democratic revolutions of the seventeenth and eighteenth centuries began to widen the conception of citizenship to an ever broader constituency.

There was a major exception to this Platonic-Aristotelian philosophic tradition, and it had a considerable influence upon educators of the Roman republican period, but it apparently could not compete during Roman imperial times and the Middle Ages. This was the rhetorical tradition exemplified by the great Athenian teacher of rhetoric, Isocrates, a contemporary of both Plato and Aristotle. Isocrates carried on a running battle with the philosophers and the philosophical schools of his day. He had little good to say about what he deemed to be the abstract and irrelevant "academic" studies of Plato's Academy and Aristotle's Lyceum.

Isocrates argued instead that the fateful problems facing the Athenian *polis* following the Peloponnesian War could only be remedied by an education

that faced head-on the problems posed by factionalism, excessive individualism, poverty, overpopulation, corruption, and despair. Isocrates agreed that the highest human good was to be realized in and through the political community and that the chief forms of human excellence rested in service to the polity. The chief human means to this end resided in man's reason, which gave him the ability to conduct discourse that could lead to sound practical judgments. Man may be "a political animal," as Aristotle said, but his genius is that he can be "a persuading animal," communicating with others to establish political communities under the rule of law.

The ideal citizen is thus the *rhetor*, or orator, not the philosopher or scientist. He heaped scorn on the idea that the good citizen can be formed by long years of immersion in purely abstract academic studies like mathematics, science, or metaphysics. In contrast, the orator is a man who is devoted to public affairs, accepts the duties and obligations of citizenship, and informs himself thoroughly by a broad range of studies, including not only rhetoric, but logic, literature, history, political science, and ethics. With this kind of "practical" education the orator is ready to develop a sense of good judgment about the problems facing the polis and to enter into reasoned discussions in the public forums with other citizens determined to arrive at just decisions of public policy.

One matter of special note was that Isocrates was an ardent advocate of Pan-Hellenic union among the warring city-states as the indispensable solution to the international competition, rivalry, and warfare pandemic among the many, small, individualistic city-states. But Isocrates lost his campaign for *e pluribus unum* through voluntary efforts of the several city-states. The Greeks left it to Macedonian conquerors and later to the Roman conquerors to impose a kind of external order upon the political pluralism which they could not overcome.

Isocrates' proposals were apparently too slow and too democratic for his times. He argued for the process of public discussion and discourse as the means of arriving at accurate and valid judgments based upon persistent study of relevant factors and rational influence free from emotional bias. He admitted that man cannot achieve irrefutable, certain knowledge in human affairs.

But in the recurring crises of the fourth century B.C. that plagued the several city-states of Greece, people wanted social, moral, and political certainties. Some people found these, they thought, in philosophy, in mysticism, in religion rather than in the political community. Others found or tried to find greater certainty in a new kind of political community that stressed the centralized authority of large scale empire, first under the Macedonian Empire that extended from Greece to India and Egypt and then under the Roman Empire that extended from the Middle East and Egypt to Britain.

The one point I wish to make here is that the early Roman experience paralleled somewhat the Greek shift from kinship to polis. For example, during the Roman Republic (from the fifth to the end of the first century B.C.) the authority of the Roman state was overlaid upon an extremely powerful network of authority that rested very largely in the hands of the father of a family (*pater familias*) or household, which often consisted of relatives, clients, servants, and slaves as well as wife and children. This authoritarian structure of authority and protection centered in the power of the father (*patria potestas*) who was responsible for the safety, security, and welfare of the kinship group. The family rather than the individual was the basis of legal and religious as well as social unity:

> The family, not the individual, was the irreducible unit of tradition and law in the Roman Republic down until the time of the Augustan reforms . . . Until very late in the history of the republic, the family was made to bear responsibility for most individual offenses, and it was the prime agency for retribution for injuries suffered by one of its members. Something akin to a highly stabilized, fully accepted blood feud existed under the patria potestas . . . Offenses such as murder, assault, arson, trespass, and injury were held by the Romans to be private offenses, to be privately negotiated and not, as we today regard them, crimes against the state itself.[16]

Thus the family had great autonomy and collective power in law, in religion, and in property and wealth. Individuals could not own property except with the express authority of the *pater familias*. This autonomy also prevailed in education. By custom the sons of upper class patrician families were educated in and through the family, whereas the children of plebeian classes seldom had very much schooling of a literate sort. But the power and autonomy of the kinship groups under the Republic began to give way during the third and second centuries B.C. as a result of the blows of incessant foreign wars and then of the civil wars of the first century B.C. Finally, in 27 B.C. the Empire officially succeeded the Republic when the general Octavian became the emperor Augustus.

As Nisbet points out, the military necessity of soldiers to obey their commanders rather than their fathers was a key element in this transition of authority from kinship group to the state, a transition somewhat akin to that performed by Cleisthenes in Athens some 500 years earlier. Legitimate authority was transferred from the family to the state, now in the person of the emperor rather than in the Senate or the Assembly. And the power of law was directly enforced upon individuals rather than mediated through families as in the Republic. The efforts of a Cicero at the end of the Republic or a Quintilian at the height of the Empire to espouse the educational ideas of Isocrates could not withstand the

autocratic and authoritarian pressures of Imperium. When rhetoric had little role to play in public policy making, it became an embellishment for an ever more refined oratorical style cultivated for its own sake rather than the art of political persuasion among free citizens. The law replaced philosophy and rhetoric in the idea of citizenship.

In the course of the next six or seven centuries the Roman law of the Empire was interpreted and developed in ways that made it enormously influential when the nation-states of the modern period began to be formed. Nisbet applies the term "political intellectuals" to those lawyers, teachers, textbook writers, and advisers to the emperor who contributed to the basic ideas of the Roman law. The culmination of this work was the *Corpus Juris Civilis*, a masterly codification undertaken by a commission of jurists headed by Tribonian, an adviser to the Emperor Justinian. Between 529 and 565 A.D. several volumes were published, consisting of constitutions promulgated by the emperors since Hadrian in the second century A.D., the collected opinions of jurists, and a general textbook of the law.

Generally known as the Justinian code, these volumes, handed down throughout the Middle Ages, became part of the revival of classical learning, which stimulated the growth of cathedral schools and universities in the twelfth and thirteenth centuries. One of the great ironies, however, was the fact that the Roman civil law gave great comfort and justification to those rulers of the fifteenth and sixteenth centuries who were seeking to establish the political legitimacy of national states supreme in their own right and free from subservience to the overall authority of a universal Roman church or a revived Holy Roman Empire modelled upon Justinian's own vision of a Universal Christian Roman Empire.

Nisbet defines four central political principles of the Roman law that are useful for our purposes.[17] The first is that the political order has sovereignty over all the other groups and interests in society: sovereignty involves the state's monopoly of legitimate force and a high degree of centralization of authority. The second principle is that no other form of association lawfully exists in society unless it is conceded the right to exist by the political sovereign. The third is that of contract, whereby the interpersonal relations of citizens are considered legal only if based on willing consent; hence, hereditary, ascriptive, traditional customs have no status in law unless they can be converted into contractual relations. This applies to the original "social contract" by which human beings were presumed to have founded collectively the state itself. And, fourth, the only politically recognized units in the society are individual citizens upon whom the rights and responsibilities of citizenship rest.

I began this quick review of the idea of citizenship by making two points about its origins in the Graeco-Roman period. The first was that citizenship arose with the rise of political communities based on man-made laws,

which took precedence over the customs and conventions of kinship, religion, or inherited status. This idea prevailed when the Greek polis replaced tribal groups and when the Roman Empire replaced the Roman Republic, which had largely recognized the kinship authority of *pater potestas*. But kinship relations and tribal authorities were reestablished in the geographic domain of the Roman Empire when and as it succumbed to the Germanic invasions of the fourth to the eight centuries A.D. For some 1000 years during the Middle Ages, citizenship in a political community was eclipsed by the pluralistic memberships that characterized medieval society:

> Kinship had almost as much sway [in medieval society] as it had had in earliest Rome, during the period of the republic, and in earliest Athens, prior to the Cleisthenean reforms. Medieval society was a vast web of groups, communities, and associations, each claiming jurisdiction over the functions and activities of its members. The church was powerful; but, so, after the twelfth century, were guild, profession, monastery, and manor. It would be hard, finally, to think of two more unlike structures than feudalism, decentralized and localized in essence, and the kind of imperial Roman society that had given rise to the system of law we are here concerned with.[18]

So, after some 1200 years of varying fortunes (roughly from the sixth century B.C. to the sixth century A.D.), the idea of political citizenship went into decline during the next 1000 years of the Middle Ages. Beginning in the Renaissance the idea of citizenship was revived, refurbished, and eventually incorporated in major Western societies as they formed a series of modern nation-states. In contrast to the long career of the general idea of political citizenship in the Graeco-Roman period, the second point I would make is that classical *democratic* citizenship had only a fairly short career of a century or two, and preeminently in Athens. It was an idea whose time had definitely not come. It could not withstand the attacks upon it from the side of pluralistic traditional kinship and religious ties nor from the side of monistic absolutistic, authoritarian controls exercised by military, political, or religious sovereigns who claimed to rule by higher authority than the consent of the people. It was this vox populi that was eventually revived, refurbished, and reconstituted by the "political intellectuals" of the eighteenth century democratic revolution.

B. The Modern Idea of Democratic Citizenship

The revival of the practices of citizenship, if not its full blown theory, had its origins as early as the late fourteenth century and fifteenth centuries in Italian cities. Peter Riesenberg argues that a civic consciousness arising from the study of Roman law and the experience of urban life had habituated men to an active life of citizenship well before 1400.[19] This ex-

perience thus reinforced the ideas of civic humanism that were written out with such persuasive force in the fifteenth and sixteenth centuries by Leonardo Bruni, Guicciardini, and above all by Machiavelli in *The Prince*. J.G.A. Pocock has portrayed in masterly style how they and others revived Aristotle and went on to influence republican thought in the pre-revolutionary Atlantic community, especially in England, France, and America.[20] Civic humanism provides a vital link between the classical high ideals of citizenship and the modern idea of republican and eventually democratic citizenship. Pocock argues that in some sense the American Revolution and Constitution form "the last act of the civic Renaissance."[21]

I also find very illuminating the interpretation of Robert R. Palmer that the democratic revolution that swept much of western Europe and British America in the eighteenth century was a single movement that broke out in many parts of the heartland of Western civilization, especially in the decades from 1760 to 1800.[22] The first manifestation was the American Revolution; the most extreme and most violent was the French Revolution; reform movements appeared in England and Ireland; and short-lived republics were set up in Holland, Belgium, Switzerland, Italy, Hungary, and Poland in the 1780s and 1790s.

Palmer makes the point that these revolutions did not spread from America or from France to the other countries. Rather, each country had its own agitations, its own protests, and its own assaults on the established orders, which from the mid-seventeenth to the mid-eighteenth centuries had become more aristocratic, more closed, more elite, more self-perpetuating and hereditary, and more privileged. Even the parliaments, assemblies, councils, and diets that were based on some sort of representative principle had become less responsive to the welfare of the common people.

Each country had its own revolutionary upheavals aimed at more participation in government by a greater share of the populace, more equality in such participation, and greater protection for the civil liberties and civil rights of an enlarged body of citizens. But the conservative resistance in most countries was such that by 1800 the established orders had regained their powers and the republics had reverted to aristocracies or monarchies, with two exceptions. The French Revolution maintained its republican facade until the counter-revolution under Napoleon established the empire formally in 1804. The American Revolution was the only one to succeed without a major reaction.

It is worth reminding ourselves what the democratic revolutionaries in the eighteenth century were revolting against. Palmer argues persuasively that the 40-year movement was essentially "democratic" in the sense that there was a growing desire for an equality that would do away with the inherited forms of social stratification:

> Politically, the eighteenth-century movement was against the possession of government, or any public power, by any established, privileged, closed, or self-recruiting groups of men. It denied that any person could exercise coercive authority simply by his own right, or by right of his status, or by right of "history," either in the old-fashioned sense of custom and inheritance, or in any newer dialectical sense, unknown to the Eighteenth Century, in which "history" might be supposed to give some special elite or revolutionary vanguard a right to rule. The "democratic revolution" emphasized the delegation of authority and the removability of officials, precisely because . . . neither delegation nor removability were much recognized in actual institutions.[23]

Now it is also important to remind ourselves that the revolutionary movements of the eighteenth century have been viewed quite differently during the past 200 years. Much depends on how one views the medieval configurations of social and political order. The contrast here between Palmer, the liberal historian, and Nisbet, the conservative sociologist, is instructive. Palmer speaks of the social stratification and growing aristocracy of the "constituted orders" of the medieval and early modern period. Nisbet speaks of the "federalism" of the medieval pluralist community. He finds great value in the autonomy, decentralization, and variety of the countless customs, traditions, and networks of groups. At the base of the social structure was the strong family system of kin, household, and clan. There were towns, guilds, all kinds of occupational and fraternal associations, monasteries, parishes, universities, and courts:

> In kinship, religion, social class, local community, region, guild, monastery, university and various other types of community lay, then, the medieval system of federalism, one that can be truly described as a *communitas communitatum*.[24]

Describing the medieval social systems as federalist and pluralist enables Nisbet to view their values favorably in contrast to the oppressive, centralized, bureaucratized, absolutistic, collectivist, modern nation-states, which attacked and replaced the medieval synthesis. It is a similar valuing of the older order and revulsion against the excesses of the later French revolutionary period that led conservatives in Britain and elsewhere to praise the freedom of the various privileged social and political groups of the old regimes, which realistically performed different functions and interests and thus should legitimately have different rights and obligations from those of the common people.

Palmer, on the other hand, describes what these differences in rights and obligations had come to mean for the "constituted bodies" of the Western European countries by the middle of the eighteenth century:

> Persons did have rights as members of groups, not abstractly as "citizens," and all persons had some legal rights, which, however, approached the vanishing point for serfs in Eastern Europe and slaves in America . . . but the most noticeable similarities in the constituted bodies are to be found in two other features. First, the concept of "order . . . frequently meant that there were some orders of men whose function was to fill positions of governance, in state or church, as distinguished from other orders whose functions were different. Secondly, there was a strong tendency, about a century old in the 1760s, toward inheritance of position in this governing elite, either by law or in fact, a tendency for influence to accumulate in a few families, or, in more abstract terms, for the institution of the family to diffuse itself through the institutions of government, not to mention those of religion. . . .
>
> In short, the world had become more aristocratic.[25]

It was this growing dominance of preferred status favoring the rights and privileges of family, kinship, wealth, property, and social class that the revolutionary movements objected to. The doctrines of natural rights, of social contract, of equality, and of political liberty were in large part directed at doing away with the preferred status that had been made into permanent legal relationships fixing the rights and obligations of special groups into a hierarchical political order. In its feudal context the idea of citizenship had become identified with a narrowly defined and small group in society. The democratic revolution essentially aimed to broaden the meaning of citizenship to include a much wider range of male adults, if not all of them, and to redefine the role of citizens in such way that they not only became active participants as individuals in the day-to-day political process but became, collectively as "the people," the very founders of the political compact itself.

The political thought of the seventeenth and eighteenth centuries and the course of the democratic revolution are far too complicated and controversial to be summarized here. I can only select a few points for emphasis, which seem to me to highlight the formulation of a new meaning for citizenship in the United States as it grew out of the American Revolution and was incorporated in the new American Republic. Here I draw upon some of the scholarship of major American historians who have dealt especially with this formative period in American history.[26]

The essential point here is that, above all, the American Revolution was political in its intent and in its results. It was not aimed at a total overturning and reconstruction of society, as the Jacobin phase of the French Revolution turned out to be. The British-American colonies had already achieved a good deal of the social equality and had never been plagued with the hereditary aristocracy which so infuriated the French

revolutionists. In America there was great faith in the virtues of independent property owners; there was little effort to achieve a radical redistribution of the economic sources of wealth or production, except for the expropriation of the lands and property of loyalists who fled to Canada.

What did influence the American patriots was the oppressive power of the British Parliament and of the royal officials who sought to compel obedience of the colonists from afar, treating them like "subjects" rather than like "citizens." Repressive compulsion by taxes, by standing armies, and by arrogant and aristocratic officials came more and more easily to be identified as tyranny and as violations of the citizens' rights to justice, liberty, and equality.

To justify the citizen's rights, revolutionary thought in eighteenth century America drew upon a stock of historical ideas that Bernard Bailyn identifies as five-fold: the classical literature on politics from Plato and Aristotle to Cicero, Sallust, and Tacitus who wrote on the corruption and decline of virtue that was undermining the Roman Republic; the Enlightenment literature on the social contract and political reform ranging from Montesquieu and Locke to Voltaire and Rousseau; the English tradition of common law stressing equity, justice, and civil rights; the Puritan covenant theology that envisioned a special destiny in America for God's contract with man; and, especially in Bailyn's view, the radical political literature of the seventeenth century revolution in England, the Civil War, and the Commonwealth period as illustrated by John Milton, James Harrington, and Algernon Sidney. Their outlook on civil liberties helped to shape the republican ideas of Whigs in the eighteenth century in opposition to the views of Tories in defense of royal sovereignty.

The American solution was to turn away from the traditional constituted bodies and turn to "the people" as the sovereign constituent power for establishing governments that would rest upon the natural rights of liberty and equality and that would function by popular consent, political representation, independence from foreign rule, and separation of political powers.

One of the most influential statements of this redefinition of "the people" as the constituent power of the legitimate political community is, of course, the Declaration of Independence, which funneled a century of democratic revolutionary thought into the prose of Thomas Jefferson and edited by the drafting committee consisting of Benjamin Franklin, John Adams, Roger Sherman, Robert R. Livingston, and Jefferson himself:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pur-

suit of Happiness. That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed. That, whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. . . .

We, therefore, the Representatives of the United States of America . . . . do, in the Name, and by Authority of the good People of these Colonies, solemnly Publish and Declare, That these United States are, and of Right ought to be, Free and Independent States . . .

Four of the thirteen states thus declared to be independent and to rest upon the sovereignty of their citizens had already drawn up and adopted constitutions before July 4, 1776. One of the most influential in stating the basic ideas of liberty and equality was the Declaration of Rights drafted by George Mason and adopted by the Virginia Assembly on June 12, 1776 as a bill of rights to its new constitution. Its several clauses spell out for a particular state in greater detail what Jefferson's eloquent words implied that the several states held in common:

That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community. . .

. . . when a government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it.

That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services, which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

> That the legislative, executive and judicial powers should be separate and distinct.
>
> That . . . all men having sufficient evidence of permanent common interest with, and attachment to the community have the right of suffrage, and cannot be taxed, or deprived of their property for public use, without their own consent, or that of their representatives . . .[27]

Thereupon the Declaration lists specific items of due process and civil liberties which made up a "bill of rights:" the right of individuals to a speedy trial by jury with due process; prohibition of excessive bail, of inhuman punishments, and of general warrants for search and seizure; protection of freedom of the press; subordination of the military to civil power; and free exercise of religion.

The bills of rights of other states in various ways extended this list to cover a wider range of citizens' rights: freedom of speech, assembly, and petition, right to bear arms and habeas corpus, equal protection of the laws, inviolability of household, and prohibition against ex post facto laws and expropriation of property without due process of law.

The enumeration of these rights and liberties in the state constitutions, many of which were later incorporated in the Federal Constitution and Bill of Rights, was the practical way in which the colonists sought to devise a political community in which the citizens as a body exercised their ultimate legitimate authority, which deserved obedience for the sake of order but which at the same time protected the individual's rights from the coercive absolutism of a totalitarian state. It was their effort to solve the persistent dilemma of order based upon the sovereignty of "the people" versus liberty for the individual citizen.

It is all too evident to us today that the patriots really meant "men" when they came to spell out the rights of the people, and they meant white men, and they meant white men of property when it came to voting. But I do not believe that we can blame too much the men of the eighteenth century for not having been born in the nineteenth or twentieth century. At least they opened up the closed constituted bodies of 1000 years' standing in such way that their successors could eventually wipe out the property qualification, the gender, the racial, and the age restrictions in the definitions of full democratic citizenship.[28]

The dilemma of securing collective order while protecting individual freedoms was especially acute during this process of releasing the people from the coercion imposed by the inherited aristocratic constituted bodies based on status and substituting a voluntary acceptance of authority based on the decisions of the body of citizens--and at the same time leaving room

for dissent, difference of view, and freedom of thought. In his widely influential *Social Contract* Rousseau put it this way: ". . . the strength of the State can alone secure the liberty of its members."[29] Some interpreters see in this the attempt of the state to require persons to be "forced to be free." Nisbet, for example, considers Rousseau to be the epitome of the advocates of the absolutist, monolithic state in view of his almost mystical analysis of the "general will" as the egalitarian expression of the public interest as formulated by the people as a whole.[30]

Perhaps Rousseau *was* an extremist advocate of the political community as superior to and as embracing all other communities, as Nisbet says, but the American founders of state and federal republics did accept highly selected parts of Rousseau's attacks on the old regimes. They certainly did not adopt his view of an absolutist though egalitarian state; they were too much concerned with freedom. But some of them did borrow from his conception of a citizen acting collectively with other free and equal citizens to form and run a legitimate political community. They also adopted his view that the individual citizen should not only obey voluntarily the laws thus politically constituted but should be free to act and think and believe as an individual under the freedoms secured by those laws and bills of rights.

I believe that Palmer makes the points about Rousseau that are most significant for the new conceptions of citizenship that the American revolutionaries were formulating in the 1770s and 1780s:

> If one were to name the one book in which the revolutionary aspirations of the period from 1760 to 1800 were most compactly embodied, it would be the *Social Contract* . . . .
>
> The *Social Contract* remains the great book of the political revolution. . . What is certain is that the greatest vogue of the book came after the fact of revolution. The book did not so much make the revolution as it was made by it.
>
> The best way to understand the book is not to compare its propositions to later democratic practice . . . nor yet to view it as an anticipation of totalitarianism . . . but to contrast it with the attitudes prevailing at the time it was written [1762], of which one of the most fundamental was that some men must in the nature of things take care of others, that some had the right to govern and others the duty to obey . . . .
>
> The *Social Contract* was therefore a quest for rightful authority, for a form of state in which obedience would turn into duty, while all the while an ethical philosophy stressing individual liberty was preserved. Rousseau could find no place to locate this final

> authority except in the community itself. Those who obey must in the last analysis command. The subject must, in the end, be the sovereign . . . .[31]

Palmer sums up what the *Social Contract* meant to the men of the 1760s who were in a mood of rebellion:

> First of all, the theory of the political community, of the people, or nation, was revolutionary in implication: it posited a community based on the will of the living, and the active sense of membership and voluntary participation, rather than on history, or kinship, or race, or past conquest, or common inheritance, or the chance of birth into an already existent political system. It denied sovereign powers to kings, to oligarchs, and to all governments. It said that any form of government could be changed. It held all public officers to be removable. It held that law could draw its force and its legality only from the community itself. . . .[32]

Although Rousseau may not have been the greatest influence upon the Americans who framed their revolution in terms of political philosophy, there is an interesting parallel in the use of the term as well as the idea of "citizen." In the *Social Contract* Rousseau defines "citizen" this way when he is defining the social compact:

> . . . this act of association creates a moral and collective body . . . receiving from this act its unity, its common identity, its life, and its will.
>
> This public person, so formed by the union of all other persons, formerly took the name of *city*, and now takes that of *Republic* or *body politic;* it is called by its members *State* when passive, *Sovereign* when active, and *Power* when compared with others like itself. Those who are associated in it take collectively the name of people, and severally are called *citizens*, as sharing in the sovereign power, and *subjects*, as being under the laws of the State.[33]

Now compare this with the preamble to the Massachusetts Constitution of 1780, which was written by John Adams, certainly no flaming egalitarian radical:

> The body politic is formed by a voluntary association of individuals. It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good.[34]

Palmer points out that the word "covenant" could go back to the Mayflower Compact but that "social" and "citizen" could very well have come from Rousseau's *Social Contract*, which Adams had read as early as 1765. Be that as it may, Palmer makes the significant point that the word "citizen" in its modern usage was brought into the English language from the French by the Americans at the time of the American Revolution. The English used the word only to refer to inhabitants of cities. And he further points out that the phrase "We the people ordain and establish" (to express the theory that the people were the constituent power) was first used in the Massachusetts Constitution of 1780 and found its way from there to the U.S. Constitution in 1787 and to many of the other state constitutions.

Running through all shades of American opinion by the mid-1780s was an uneasy feeling that something had to be done about the political process at both the state and the national levels. Alarms of crisis were being sounded throughout the land in press and pulpit and coffee house. Protests against high prices, corruption in high places, bribery and pay-offs to public officials, excessive affluence among the wealthy and excessive poverty among the disadvantaged, hucksterism among land speculators, arbitrary confiscation of property or reckless issuance of paper money by capricious legislatures, the decline of religion and public virtue--all these fed the long-held suspicion of political power and tempted many to believe that unrestrained state legislatures or majority rule at home were little better than an unrestrained Crown or Parliament abroad.

The earlier republican faith that "the people" were basically virtuous or could be made so if they were only given liberty to rule themselves began to weaken in the face of the mountainous problems that were piling up after a decade of experience among thirteen independent states. So, more and more thoughtful people of a "federalist" persuasion began to argue that liberty alone, or religion alone, or education alone could not assure a sound political community: constitutional reform itself and the strengthening of political institutions themselves were required in order to remedy the licentiousness and viciousness of unrestrained liberty and equality. Paramount among such reforms were a strengthening of the executive and judicial branches of government to balance the legislative, and the strengthening of a senate to balance the popularly elected assembly. The Massachusetts Constitution of 1780 presaged this approach, but by the mid-1780s the feeling also grew that reforms in the state governments alone were not enough, that reform had also to extend upward to the central government. As Gordon S. Wood puts it: "State governments, however well structured, no longer seemed capable of creating virtuous laws and citizens."[35] The calling of the Constitutional Convention was thus the culmination of a decade of trial and error in the process of constitution-making.

Historians are, of course, divided as to the essential meaning of the Constitution of 1787-89 in its relation to the original Revolution of the mid 1770s. In general, Gordon Wood argues that it was an aristocratic repudiation of the democratic ideology of the Revolution. Bernard Bailyn, however, argues that the Constitution was not so much a repudiation as it was "a second generation expression of the original ideological impulses of the Revolution applied to the everyday, practical problems of the 1780s."[36] And Jack P. Greene, favorably reviewing Wood's book as "one of the half dozen most important books ever written about the American Revolution," nevertheless, says:

> This faith in the efficacy of legal and constitutional arrangements may thus have made the process of constitution-making in the states the very essence of the Revolution in 1776, and the Constitution may, therefore, have been less of a repudiation and more of a fulfillment of the principles of '76 than Wood suggests. Because it did so much to reshape the political ideas and aspirations of men in America and elsewhere in the world, the innovative system of politics incorporated by the Federalists in the Constitution, far more than the genuine but transitory and limited millenialism of 1776, may have been not only the most lasting contribution but also the most radical feature of the Revolution.[37]

Within the Philadelphia convention and the subsequent debates the prime issues centered upon reconciling and compromising the confrontation of interests represented by "federalists" and "anti-federalists." Until these were worked out the role of education would remain uncertain even in theory.

The course of events between 1787 and 1789 was in effect an agreement to try Madison's middle ground between a strongly centralized and consolidated nation and a loose collection of individual, independent sovereign states. As a result, it was going to be difficult to define with precision what the role of education ought to be in view of a compromise "federal" governmental political system whose allocation of powers and functions were still largely to be worked out. If Hamilton's or Jay's strongly centralized national government had clearly won out, it might have been fairly easy to design a centralized national system of education. Or if the New Jersey plan to tinker a bit with the Articles of Confederation but leave the states fundamentally alone, as Patrick Henry, Sam Adams, Richard Henry Lee, George Mason or Elbridge Gerry wished, the authority for education would clearly have remained in state or in private hands.

But these alternatives did not win. Out of the clash of federalist and anti-federalist views came a new constitutional order that created a new federal government but did not automatically or immediately create a new or unified political community. The problem, therefore, that was bequeathed

to education was how to help develop the social cohesion and the sense of community required of a large republican nation while the educational systems remained in state, private, or religious hands. The convention debates were so engrossed in the federalist-anti-federalist opposition and in the political process of winning an argument or reconciling differences that education was either ignored or postponed until the more basic question of union or disunion was settled.

Gordon Wood argues that the differences of outlook toward the proposed constitution are not easily defined. The proponents and opponents were not easily classified according to economic or sectional groupings. He concludes that the fundamental quarrel was between aristocratic federalists and democratic anti-federalists. Federalists feared too much social mobility and social disruption, and believed in the superiority of an elite of talent and learning as a natural aristocracy. Those best qualified to rule could be detected by their property, education, and cultivated refinement. They came to the conclusion that social differences were probably inevitable and that the fundamental threat to republicanism came from oppression not from government officials or aristocratic gentlemen but from an arbitrary or capricious or uneducated majority.

So, the federalists argued, both individuals and property must be protected by government through a bicameral system in which the unruly majority of the House could be checked by the greater wisdom and stability of the propertied and educated Senate. Both should be looked upon equally as representatives of the sovereign people, as indeed also were the president and the judiciary. Sovereignty lies with the total people of the political community and all their representatives, not solely lodged with the representatives in the state legislatures or the House of Representatives. Thus, since all the agencies of government, both federal and state, represented the sovereign people, and since the powers of the federal government were strictly limited, and the courts will be especially alert to protect their liberties, there was no need for a particular bill of rights in the Constitution.

This conclusion about not needing a bill of rights was probably the weakest argument of the federalists. It enabled the anti-federalists to picture the federalists as protectors of wealth, privilege, and power who in effect had succeeded to the social hierarchy of the British empire and who would reinstitute monarchy if they could. The anti-federalists tried to marshal the resentments against the cultivated classical education of urban or country gentlemen on behalf of the plain people of the city or up country. They were likely to believe that ordinary people of virtue and good common sense and hard-working motivation were just as fit to rule, nay even more so, as the fine feathered gentlemen politicians with their supercilious academic learning. They held to the earlier republican beliefs that moral

regeneration was more important in the preservation of republicanism than in the legalistic machinery of constitution-making. They feared the new constitution would neglect local interests, state problems, and the needs of the lowly people--which had been what the Revolution of 1776 was all about. They saw a strong president and an "upper" house as negating the historic republican Whig belief in the elected legislature as the real depository of the people's liberties, and how could this sovereignty be divided with a second house that would inevitably represent the rich and the privileged? Ralph Ketcham has compiled a very useful collection of *Anti-Federalist Papers* that nicely complements the more familiar *Federalist Papers* of Hamilton, Madison, and Jay.[38]

But the anti-federalists lost much of the argument of 1787-1789. They were poorly organized and uncoordinated in their opposition and in essence they were looking backward to the simpler times of the seventeenth and eighteenth centuries. They were more traditional and less modern in their vision of what was required of a political system capable of coping with the exigencies of large scale organization, international affairs, trade and commerce, incipient industrialization, and scientific technology. To cope with these problems, modern political systems have not only produced differentiated governmental structures to perform specialized executive, legislative, and judicial functions, but also more differentiated political infrastructures to carry on complicated political processes through political parties, organized interest groups, well developed mass media, and mass systems of universal education.

These characteristics of a modern political system, especially the differentiated separation of powers, were seen by the federalists as much more crucial than they had been in 1776. They argued that failure to distinguish the executive, legislative, and judicial functions was not only a fault of the Articles of Confederation but also a characteristic of traditional tyranny itself. Furthermore, the "upper" house would be not so much a repository of wisdom and privilege but a protection of small states against the tyranny of the large states, a new kind of check upon unrestrained power.

So in the end the Madison compromise won the day, especially when he came to agree with Jefferson that a specific bill of rights was desirable and promised that one of the first acts of the new Congress would be to draw up a bill of rights, a promise he promptly and personally carried out in the summer of 1789. What was happening was that a new conception of citizenship was being formulated, the consequences of which could not be foreseen. Liberty was no longer to be confined simply to the older Whig meaning, i.e., the right of the people to participate in the legislative process through elected representatives. Liberty was now being extended to mean the protection of the individual and minority groups against encroachments by the government itself and especially by the legislature.

It also projected the idea that a liberal government would be an active protector of individual citizens from whatever source the threat of tyranny is greatest, if need be from the majority itself.

Madison spelled out this view of the role of the federal government as a protector of liberty in his remarkable speech in the House of Representatives on June 8, 1789 when he presented and justified his proposals for amendments to the constitution to incorporate suggestions made by the state conventions at the time of their ratifications. (See Chapter 2.) First of all, he proposed that the principle of the sovereignty of the people be spelled out in a preamble to the Constitution itself, i.e., he would have defined more explicitly what we have come to call the political community that lies behind or above the constitutional order itself:

> First, that there be prefixed to the constitution, a declaration, that all power is originally vested in, and consequently derived from, the people.
>
> That government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, and the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.
>
> That the people have an indubitable, unalienable, and indefeasible right to reform or change their government, whenever it be found adverse or inadequate to the purposes of its institution.[39]

These sentences breath the spirit and even some of the words of the Virginia Declaration of Rights and the Declaration of Independence. The people are the ultimate source of authority for government. This reflects the natural rights philosophy of the eighteenth century--civil government is to be a secular government. The rightful establishment of government is derived from the authority of the people alone, and the people alone have the right to reform or change their government. Madison's proposal was not adopted, presumably because the present Preamble beginning, "We, the people" was deemed sufficient to cover Madison's point here.

Thus, by the time the Constitution was debated and drawn up at the Constitutional Convention in 1787 the Preamble no longer said that the representatives were speaking "in the name of and by the authority of the people" as the Declaration did. The Preamble simply says quite directly "We the people of the United States . . . do ordain and establish this Constitution for the United States of America." And it might be well to recall here once again the reasons for such establishment. It was in order to

- form a more perfect Union

- establish Justice
- insure domestic Tranquility
- provide for the common defense
- promote the general Welfare
- and secure the Blessings of Liberty to ourselves and our Posterity

As I said earlier, historians have long argued whether the framing and adoption of the federal Constitution was a logical and political fulfillment of the revolutionary movement of the 1770s and 1780s, or whether it was a sign of a conservative reaction against the more radical goals of the earlier revolutionary struggles within the states as well as against British rule. I cannot, of course, add much to such discussions, but it is quite clear that the reaction in the new United States was in no way comparable to that in France or Germany or Britain of the nineteenth century. The aristocratic forces in America were less extreme, less rigid, and less caste-conscious than in Europe and, conversely, there was greater willingness to admit of the possibility of social mobility and a more flexible class structure.

What seems to me to be the most important point for the idea of citizenship is that the Americans came up with the two-fold proposition: Not only did the source of legitimate power reside in the people rather than in the constituted bodies of tradition, but "the people" were at one and the same time the source of legitimate authority for both the states and the federal government. The trouble with the Articles of Confederation was that the federal government drew its authority from the several states, not from the people as a whole. Now, under the new Constitution both sets of governments were to be legitimized by the same source. This meant that the individual citizen was at once a citizen of a particular state and a citizen of the whole United States:

> The citizen . . . was simultaneously a citizen both of the United States and of his own state. He was the sovereign, not they. He chose to live under two constitutions, two sets of laws, two sets of courts and officials; theoretically, he had created them all, reserving to himself, under each set, certain liberties specified in declarations of rights.[40]

Although Americans arrived at a creative conception of a broadened idea of citizenship, it posed serious problems for the process of defining what the role of education should be in the new republic and in the new states. There were differences of opinion as we have seen, as well as much ambiguity and much uncertainty. All the more reason, therefore, why we

should be about the task of refining and redefining the values to guide our programs for civic education in the future.

Some of the most insightful scholars of the 1980s have underlined the urgency of this task. I mention only two here, and in the briefest of terms. In their stunning survey of the attitudes of modern Americans concerning the nature of private and public life, Robert Bellah and his colleagues found that the old ideals of the concerned and participating citizens transmitted in the biblical and republican traditions with their emphasis on justice and freedom still appealed to many. But so often these values of commitment to community were undermined by the fierce individualism and competitiveness of modern life. They had too few and too little grounding in a common language of the public good. Their jaundiced views of politics, politicians, and public servants lead them to give higher priority to the separation and individuation which broke up the tyrannies of the past. But now we need a revitalization of the sense of citizenship:

> The transformation of the [bureaucratic] state . . . should focus on bringing a sense of citizenship into the operation of government itself. Such a spirit is not entirely lacking today, but it is severely weakened by suspicion of government and politics on the one hand and the idea of impersonal efficient administration on the other. In order to limit the danger of administrative despotism, we need to increase the prestige of government, not derogate it . . . . We need to discuss the positive purposes and ends of government, the kind of government appropriate for the citizens we would like to be. Among other things, we need to reappropriate the ethical meaning of professionalism, seeing it in terms not only of technical skill but of the moral contributions that professionals make to a complex society. We undoubtedly have much to learn from the Progressives and the architects of the early New Deal, who still thought of professionalism partly in terms of the ethic of the calling. To change the conception of government from scientific management to a center of ethical obligations and relationships is part of our task.[41]

Sounding much the same alarum, but in still more pungent terms in the middle of the Iran-Contra affair, Benjamin R. Barber wrote in *The New York Times*:

> The domain of the citizen is vanishing in America, and in its absence democracy is becoming ever more vulnerable--not to wolves wearing red stars preying from without but to atrophy and petrifaction from within . . . .
>
> When democracies collapse . . . it is not because they have forgotten how to pledge allegiance to the flag but because they have

forgotten the meaning of citizenship. History suggests that free republics rot from within before they are dispatched from without.

It was not the Spartans who wrecked Athenian democracy nor the Visigoths who brought down the Roman republic. Alexander Kerensky's Russia, Spain under the Republic and Weimar Germany self-destructed, for democracy expends itself as it functions. It depends on a noisy, fractious and self-critical politics, which in turn demands an extraordinary degree of civic resilience and public spirit. These traits are usually thought to be incompatible with great wealth and inequality, with extended empire and an exclusively private pursuit of individual happiness . . .

. . . Americans, without having yet lost their liberty, seem more concerned about enlarging their private sphere of happiness than invigorating the public sphere in which civic freedom flourishes. They confront without a murmur the wholesale privatization of their country, the selling of the public trust into private hands, the transfer of public tasks (prisons, hospitals, schools) to private profit groups, the redefinition of public responsibilities (welfare, support for the arts) as private functions. And what remains of the public domain they leave to politicians and bureaucrats complaining only when zealots like Lieut. Col. Oliver L. North run amok.[42]

For the first half of the 1980s, the American people had been constantly encouraged to feel good about themselves and their country: Throw off the doubts and uncertainties of Jimmy Carter and stand tall. Then, by the opening of the first year of the Constitutional Bicentennial in 1987, they had been shocked by the exposures of massive greed reaching into the highest levels of the private sector and the most prestigious houses on Wall Street. Then came the Iran-Contra affair, followed in staccato fashion by the revelations of the Tower Commission and other investigations into alleged secrecy, deceit, and mismanagement (or non-management) reaching into the highest levels of government and televangelism. Finally, as the first Bicentennial year of 1987 came to a close, the American people were further reeling under the divisive impact of the Bork nomination to the Supreme Court, the stock market crashes heard round the world, and the final report of the Iran-Contra Congressional investigating committees. How good did they then feel about themselves and their country? What had happened to the founders' faith in civic virtue? And what should education do? Would the excellence movement for educational reform respond or would it ignore such challenges to the health, stability, and vitality of the Republic?

One direct answer to the question as to what the schools should do has been given by the New York State Board of Regents, which has mandated a 12th grade course, Participation in Government, as a requirement for

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graduation from high school. Bringing Aristotle's high ideal of citizenship up to date, the course syllabus states:

> The primary purpose of the "participation in government" mandate is to facilitate and encourage the development of civic-minded individuals capable of effectively fulfilling the "office of citizen": a fundamental precept of democracy and a right guaranteed by the 14th Amendment to the Constitution. The end product should be individuals who have the characteristics that define a citizen--committed, informed, skillful, and active. All four elements are essential . . . .
>
> The basic function of education in a democratic society must be to nurture in individuals the unique qualifications needed to function effectively in the "office off citizen," an office as real as President, Senator, Representative, governor, mayor, chief executive officer of a corporation, union president, or member of a board of education. This office demands individuals who possess, in various degrees, the skills and qualities associated with: . . . "civic mindedness" . . . . "civic intelligence" . . . . "civic literacy" . . . . "civic enterprise" . . . .[43]

In designing the course as a culmination of civic education in the schools, the syllabus not only stresses the need for students to face public issues arising from families, schools, communities, states, nation, and the world, but also

> . . . this culminating activity should develop in students an increased respect for the broad range of democratic or civic values that underlie our basic philosophy of government. Such values include, but are not limited to: justice for all; due process of law; free expression; rule by consent of the governed; government by elected representation; government efficiency; honesty; economic freedom; responsibility for individual actions; responsibility to others and to the community; privacy; freedom of personal association; diversity; majority rule with respect for minority rights; equal participation of all persons in government; respect for the general welfare; respect for property rights; freedom of religion; separation of powers; local control of local problems; equal opportunity; equal protection of the law; rule of law on constitutional limits on government; national security; and respect for human dignity.[44]

I welcome this stress on underlying civic values as one way to prevent "participation" from becoming merely random activism. Hence, my emphasis on the Twelve Tables of Civism in Chapter 4.

Chapter 4

What the Schools Should Teach: The Twelve Tables of Civism

In his recent book on cycles in American history, Arthur Schlesinger, Jr. depicts recurrent swings between conservatism and liberal reform, private interest and public purpose, a secular civic republicanism and a religious messianic tradition. He believes, however, that these two "jostling strains" in American thought agree more than they disagree and thus are "indissoluble partners in the great adventure of democracy." In his review of Schlesinger's book in *The New York Times*, Benjamin R. Barber cautions that historians should not try to determine the future and that Schlesinger reveals both the virtues and the defects of American liberalism.[1] Be that as it may, the time is ripe for American education to pay more attention to how much agreement there may now be about the civic values that schools and colleges should be transmitting through serious study, discussion, and debate. No one expects full agreement about outcomes or acceptance of beliefs as a result of such study. I would hope, however, that there might be some agreement about what is worth studying and learning. To this end, I offer a possible agenda in "The Twelve Tables of Civism," with apologies to the *decemvirs* of the Roman Republic who presumably drew up the original "Laws of the Twelve Tables" for the early Roman Republic and to Aristotle's paradigm of the later Greek republics.

Why Twelve? Because that is a parsimonious number of concepts with which to summarize the underlying principles and values of American citizenship that should be studied in school and college. In my 1980 book, *The Revival of Civic Learning*,[2] I identified ten concepts, which, with tongue half in cheek, I labelled "A Decalogue of Civic Values" with apologies to Moses and Aristotle, but when the State of California Framework Committee on History/Social Science picked up the idea in 1981, they added "truth" and "respect for property" to my list.[3] I decided they were right. While they increased the number of concepts from ten to twelve, the list still did not rival the long and disconnected laundry lists so often found in curriculum guides.

Why Tables? Because a "table" may be defined as a scheme or arrangement of words (or numbers) to exhibit a set of facts or ideas in a definite, compact, or comprehensive form. I hoped the tabular form, especially in parallel columns, would enhance the teaching effectiveness of the concepts by emphasizing the counterpoints between *Unum* and *Pluribus*, between the obligations of citizenship that bind us together as a political community and the rights of citizenship that betoken a democratic polity. I

know that calculators have affected the methods of learning the multiplication tables, but I know of no similar short-cut to understanding the tables of civism.

Why "Civism"? Although seldom used, "civism" is a perfectly good English word defined in the second and third editions of Webster's unabridged dictionary and in the *Oxford English Dictionary* simply as "the principles of good citizenship." Despite its unfamiliarity in present usage, it echoes the late eighteenth century era of democratic revolution when it was coined in French as "civisme", taken in turn from the Latin *civis*, meaning a citizen. Originally, it implied a favorable disposition toward the new French Republic, but since the English were not particularly favorably disposed toward the French Revolution, they used the term to refer especially to citizenship ideals of the ancient Greek and Roman republics and to the citizen principle in general. I use the term as a shorthand way of referring to the principles, sentiments, and virtues of good citizenship in a democratic republic.

Why the whole phrase? I hope "The Twelve Tables of Civism" might evoke a historical allusion to "The Laws of the Twelve Tables" of the early Roman Republic, supposedly the first written codification of the customary law of Rome as of the middle of the fifth century B.C. The tradition is that twelve wooden tablets were produced at the behest of plebeians in order that the common law be formalized in writing and thus prevent patrician judges from interpreting in their own favor the customary legal principles long handed down orally. The Tables were a rudimentary Magna Carta, if you please, although they were far from democratic in a modern sense. They asserted the rights of the father over children, husband over wife, master over slaves, and citizen over alien. But apparently they did begin to codify in writing some of the major elements of Roman law regarding property rights, economic justice, contracts and usury, due process, judicial proceedings, torts, capital punishments, libel, and treason.

Whatever the authenticity of the exact provisions of The Twelve Tables, it seems clear that they provided a "common core" of study in Roman schools for boys, memorized by boys as the basics of civic education for the better part of 400 years. For much of that time, they apparently came to be regarded as the pure fount of authority. At least Cicero thought so in 55 B.C. In one of his panegyrics on the superiority of Rome over the Greeks, he wrote:

> . . . that little book of the Twelve Tables, if anyone looks at the fountains and sources of laws, seems to me, assuredly, to surpass the libraries of all the philosophers both in weight of authority, and in plenitude of utility.[4]

Obviously, I have no intention of urging a return to the Roman Twelve Tables, but if indeed they helped through education to maintain the Roman Republic long after the demise of the Greek republics, it was no mean achievement. For a republic celebrating its 200th anniversary, 400 years does not look so bad. And if civic education can help to stave off some of the "corruptions" suggested by Aristotle's paradigm, we might have a still better chance of celebrating a tricentennial or even a quatrocentennial of the modern American republic. So I offer the studies suggested by Table I as an agenda for revitalizing civic education in American schools and colleges, a common core of civic values and concepts that are fundamental to the theory and practice of democratic citizenship in the United States.

As I have said, these value claims of the political community are not discrete or mutually exclusive; some often conflict with others; and they are subject to many different interpretations, as all really important ideas are. But I believe they provide significant guidelines to what should be taught in an efficacious program of civic education. I would not argue for a particular order of priority in pedagogical treatment. Teachers may well start at different points or even with different terminology, depending on their sense of appropriateness for the local situation, but it seems to me that a comprehensive civic education program will consider all of them at some point in the school's program--and in relation to each other.

Justice

I start with the concept of justice for several reasons. The basic idea of justice (that which is fair) is pervasive in most social contacts and at most ages. It can be heard in the kindergarten from the child who cries out to the teacher that it wasn't "fair" to be pushed out of a turn at the swing. It can be heard in the streets of San Francisco from the rampaging crowd who shouted "We Want Justice!" in response to a jury's verdict of manslaughter instead of murder for Dan White, the admitted killer of the mayor and a city council supervisor.

But there is also a timely educational reason for starting with the concept of justice. The past two decades have witnessed a remarkable shift of interest in political philosophy to questions of morality, equality, authority, and the obligations of citizenship along with matters of freedom and rights of citizenship. It is a subject where several disciplines intersect: political science, philosophy, law, and religion. Obvious signs of the change in the United States were the publication in 1971 of *A Theory of Justice* by John Rawls, political and moral philosopher at Harvard, and the beginning of the journal *Philosophy and Public Affairs*. Within a decade, a bibliography of works discussing Rawls could fill several hundred pages. Among the most significant challenges to Rawls were *Liberalism and the Limits of Justice* by Michael J. Sandel, also a philosopher at Harvard, and *Spheres of*

TABLE I

TWELVE TABLES OF CIVISM FOR THE MODERN AMERICAN REPUBLIC*

(with apologies to the "Laws of the Twelve Tables" of the Early Roman Republic and to Aristotle's paradigm of the Later Greek Republics)

UNUM		PLURIBUS	
The Obligations of Citizenship		The Rights of Citizenship	
Corrupted Forms of Unum	True Forms of Unum	True Forms of Pluribus	Corrupted Forms of Pluribus
"Law and order"	Justice	Freedom	Anarchy
Enforced sameness; conformity	Equality	Diversity	"Unstable pluralism"
Authoritarianism; totalitarianism	Authority	Privacy	Privatism; privatization
"Majoritarianism"	Participation	Due process	"Soft on criminals"
"Beguiling half-truth; plausible falsehood"	Truth	Property	"Property rights superior to human rights"
Chauvinism; xenophobia	Patriotism	Human Rights	"Cultural imperialism"
	Democratic Civism		

*Adapted from the "Decalogue of Democratic Civic Values" in R. Freeman Butts, *The Revival of Civic Learning* (Bloomington, Indiana: Phi Delta Kappa Educational Foundation, 1980), p. 128.

110

Justice by Michael Walzer, professor of social science at the Institute for Advanced Study at Princeton. In legal studies Ronald Dworkin, Lawrence Friedman, and Bruce A. Ackerman were ploughing new ground.[5]

The idea of justice as fairness is thus a good starting point for study and discussion in school and college. It can cut across an enormous range of society's activities--from passing laws that are fair and reasonable to making decisions in the quiet courtroom that are fair to persons who disagree or are in conflict, or who have been wronged or injured, or who have been deprived of benefits to which they are entitled. The idea of procedural due process encompasses the processes in civil and criminal justice, courts of law, and the use of juries, legal counsel, punishments, and imprisonment. I have categorized questions of procedural justice and corrective justice under the heading of due process; and issues of fair distribution of social benefits and burdens under the heading of equality.

It is useful to think of justice as the very moral basis of a democratic society, what Rawls calls the "first virtue of social institutions." It is what must govern the conduct of persons in their relations to one another, if the society is to be self-sufficient and well-ordered. Rawls speaks of a public sense of justice that produces a well-ordered society in which everyone accepts, and knows that others accept, the same principles of justice. This means that the members of a well-ordered society must develop strong moral sentiments and effective desires to act as the principles of justice require:

> If men's inclination to self-interest makes their vigilance against one another necessary, their public sense of justice makes their secure association together possible. Among individuals with disparate aims and purposes a shared conception of justice establishes the bonds of civic friendship; the general desire for justice limits the pursuit of other ends. One may think of a public conception of justice as constituting the fundamental charter of a well-ordered human association.[6]

What the public sense of justice does is to establish the claims of what is right as prior to the claims of what is good, since what is good is defined differently by individuals and groups according to their particular life-styles and their particular personal desires. The principles of what is right and what is just thus put limits and impose restrictions on what may be reasonable conceptions of one's own good. A just social system defines the boundaries within which individuals and pluralistic communities may develop their aims and actions.

Rawls defines two principles of justice that set these boundaries, and the first principle must be satisfied before moving on to the second. The first principle is the citizen principle. It is stated as follows:

> Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.[7]

What are the "equal liberties" of citizenship? They bear close resemblance to the American constitutional order guaranteed by the Bill of Rights:

> The basic liberties of citizens are, roughly speaking, political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are all required to be equal by the first principle, since citizens of a just society are to have the same basic rights.[8]

After the citizen principle of equal political liberties is satisfied, then the second principle of justice should come into play. It has to do with the regulation of social and economic conditions on behalf of equality:

> Social and economic inequalities are to be arranged so that they are both:
>
> a. to the greatest benefit of the least advantaged . . . and
>
> b. attached to offices and positions open to all under conditions of fair equality of opportunity.[9]

Once the political principle of justice is satisfied, then a just society will move on to distribute income and wealth and develop a design of organization that makes use of differences in authority and responsibility:

> While the distribution of wealth and income need not be equal, it must be to everyone's advantage, and at the same time, positions of authority and offices of command must be accessible to all. One applies the second principle by holding positions open, and then, subject to this constraint, arranges social and economic inequalities so that everyone benefits.[10]

The total position elaborated in great detail by Rawls cannot be covered here, and of course it has been severely criticized by some philosophers and social scientists.[11] But his position points unmistakably to the priority of achieving a common civic community based on the citizen principle of justice, which I regard as the prime authority for the purposes of public education.

The philosophical contrast between the roles of equality and freedom in a just society has been sharply drawn in recent years by Rawls on one side

and Robert Nozick, also professor of philosophy at Harvard, on the other side. While Rawls argues that only those inequalities are justified that adhere to the benefit of the least advantaged through the action of the state, Nozick argues that justice requires that each individual has full entitlement to what he or she acquires from the state. Limited government and a minimal state are required for full freedom of individual rights. This is bound to result in certain inequalities, because people indeed are unequal in talents, skills, and efforts, but they, not someone else, are entitled to what those talents, skills, and efforts produce. According to a minimalist view like that of Nozick, any equality imposed by government is unjust. And, according to advocates of a liberal welfare state like Rawls, the enforced equality of a totalitarian state of the left is as much a corruption of the principle of justice as is the enforced inequality of a totalitarian state of the right.

Rawls has not elaborated a full scale philosophy of education based on his underlying political and moral philosophy as John Dewey did. But I believe he has paved the way for philosophers and practitioners of education to restore a profound civic, moral, and political basis to public education, if we but will. Our task is to try to find out if there are common agreements on civic education among academic specialists who differ among themselves on fine or major points of political philosophy. For example, Michael Walzer attacks many aspects of Rawls' position, but he also says that inclusive schools are better than separate schools and that teachers committed to the basic discipline necessary for democratic politics will try to establish a shared knowledge among their students:

> The aim is not to repress differences but rather to postpone them, so that children learn to be citizens first, workers, managers, merchants, and professionals only afterward. Everyone studies the subjects that citizens need to know.[12]

When Walzer goes on to say that equal citizenship requires a common schooling, and when he argues against vouchers and tuition tax credits for private schools but is in favor of the state setting common curricular requirements for private schools, these arguments sound as though they coincide with Rawls' citizen principle of justice.

The formulation of a comprehensive role for public education in achieving civic community still lies before us. Recapturing a sense of legitimacy and of moral authority for public education may well rest on the success with which the academic and educational profession can bring about what so many of the American people have hoped for it for 200 years--establishing as a priority the vigorous promotion of the basic values of the American civic community--justice and liberty and equality. It may just be that not only is the future of public education at stake, but the future of the democratic community itself. For there have also been many Americans

in our history who have been only too willing to believe that a rough and ready frontier justice of law and order or lynch law is good enough for some people. "Justice" often seemed to be served by "keeping them in their place," and they could call on Plato's *Republic* or even the *Bible* for justification.

More recently, in the 1950s and 1960s, Southern state governors invoked the principle of maintaining "law and order" when they called out the troops or police to prevent black students from attending public schools or state universities on the grounds that angry white crowds would commit violence unless they did so. Fortunately, the Supreme Court, the President, and the Justice Department during the administrations of Eisenhower, Kennedy, and Johnson held that such appeals to local standards of law and order could not be achieved at the expense of the federal constitutional rights of black students. Justice could not be justified in the name of such community standards of law and order.

Freedom

What is most significant about Rawls' theory of justice for my purposes here is his assignment of first priority to the idea of equal basic liberties. The just political community will then be committed to the idea of freedom as well as equality. I view freedom as having at least three elements relevant to civic education.[13] Freedom involves:

a. the right, the opportunity, and the ability of every human being to live his or her own life in dignity and security and to seek self-fulfillment or self-realization as a person or as a member of a chosen group without arbitrary constraint by others. This is the freedom of the person and of private action.

b. the right, the opportunity, and the ability of every human being to speak, to read, to inquire, to think, to believe, to express, to learn, and to teach without arbitrary constraint or coercion by others, especially as a means for making deliberate choices among real alternatives on the basis of reason and valid and reliable knowledge. This is the freedom of the mind and of intellectual inquiry.

c. the right, the opportunity, and the ability of every citizen to take active part in shaping the institutions and laws under which he or she lives in common with others and to do this by making uncoerced choices and by participating through active consent in cooperation with one's fellow citizens; and to do it in such a way as to promote justice, freedom, and equality for others. This is the freedom of the citizen and of public action.

These are the great freedoms protected by the Bill of Rights and especially by the First, Fifth, and Fourteenth Amendments, but they obviously in-

clude more than that. I like the distinction that Alexander Meiklejohn made between public freedoms and private freedoms.[14] Public freedoms are those that inhere in the welfare of the democratic political community and that the liberal state is obligated actively to protect from invasion by coercive majorities in the community, or by despotic minorities in the community, or by the state itself.

Meiklejohn believed that the First Amendment guarantees these public freedoms of belief, expression, and discussion to be virtually unlimited. They cannot be abridged, because they are indispensable for the public decision-making process that is essential for the maintenance and improvement of a free and democratic political community. Indeed, the liberal state is obligated actively to safeguard and promote the public freedoms of teacher, learner, and citizen from threats by either majorities or minorities in the community. On the other hand, private freedoms are those that inhere in the individual, but may be limited for the public good under due process of law as guaranteed by the Fifth and Fourteenth Amendments. These limitations can be applied under certain conditions and in the interests of justice to life, liberty, and property.

The idea of freedom is not only fundamental to the very nature of a liberal democratic political community, it is at the heart of the pluralistic elements of diversity, privacy, due process, and human rights as well as property. Tensions between freedom and equality, authority, and personal obligation for the public good become readily apparent when one begins to inquire as to the limits that should be placed on individual freedoms of action that threaten the freedoms of others. Freedom of speech is limited by penalties for libel and defamation of character; freedom to accumulate and dispose of property or advertise it falsely is subject to limitations of fines, taxation, and monopoly; freedom to produce goods is limited by threats to the public interest and to the environment; freedom to discriminate and segregate in public education is limited by the belief in equality and the equal protection of the laws.

I agree with Meiklejohn on the fundamental importance of the continuing study of freedom as a fundamental purpose of civic education. Just as we need a "public conception of justice" as the basis for a well-ordered society, so do we need a "public conception of freedom" that is held sufficiently in common to assure the vitality of a free and democratic political community. Meiklejohn puts it this way:

> . . . [A] primary task of American education is to arouse and cultivate, in all members of the body politic, a desire to understand what our national plan of government is . . . [This] is a challenge to all of us, as citizens, to study the Constitution. That constitution derives whatever validity, whatever meaning it has, not from its acceptance by our forefathers..., but from its acceptance by us

> now. Clearly, however, we cannot, in any valid sense, "accept" the Constitution unless we know what it says. And, for that reason, every loyal citizen of the nation must join with his fellows in the attempt to interpret, in principle and in action, that provision of the Constitution [the First Amendment] which is rightly regarded as its most vital assertion, its most significant contribution to political wisdom. What do We, the People of the United States, mean when we provide for the freedom of belief and the expression of belief?[15]

And, speaking of "our forefathers," it is well to remember that Madison clearly had in mind that the bill of rights he was proposing would protect individuals not only from abuses by government but would mean that the government itself would protect individuals from abuses of their liberties by other individuals in the community, namely the majority.

Discussion of political and social issues in the classroom are more likely to be freer than they were 50 years ago, but it took the great convulsions of the period following World War II to move as far as they have.[16] For two decades of the post-war period teachers were subjected to four kinds of restrictions under the hammer of many community groups and legislative actions at federal and state levels: special loyalty oaths for teachers; expulsion from teaching on the basis of membership in the Communist party or other subversive organizations; restrictions and censorship on teaching, writing, and discussion of controversial issues; and restrictions on political activities of teachers.

Details of this long and complicated history cannot be given here, but the constitutional principles of public freedom were eventually formulated by the Supreme Court.[17] One of the clearest statements was given by Justices Felix Frankfurter and Hugo Black in their concurring opinion in *Wieman v. Updegraff*, which struck down the Oklahoma oath law for teachers at the height of the McCarthy era:

> The process of education has naturally enough been the basis of hope for the perdurance of our democracy on the part of all great leaders from Thomas Jefferson onwards.
>
> To regard teachers--in our entire education system, from the primary grades to the university--as the priests of our democracy is, therefore, not to indulge in hyperbole. It is the special task of teachers to foster those habits of open-mindedness and critical inquiry which alone make for responsible citizens, who, in turn, make possible an enlightened and effective public opinion . . . .
>
> They [teachers] must have freedom of responsible inquiry, by thought and action, into the meaning of social and economic

> ideas, into the checkered history of social and economic dogma. They must be free to sift evanescent doctrine, qualified by time and circumstance, from the restless, enduring process of extending the bounds of understanding and wisdom, to which the freedoms of thought, of speech, of inquiry, of worship are guaranteed by the Constitution of the United States against infraction by National or State Government.[18]

Justices Frankfurter and Black might have included that teachers should also be free from repression by community groups as well as from governmental agencies. In fact, Justice William O. Douglas did just that in his dissent in *Adler v. Board of Education*. He argued against the New York Feinberg law, which provided that a teacher's membership in a subversive organization should automatically be grounds for dismissal:

> The [Feinberg] law inevitably turns the school system into a spying project . . . The principals became detectives; the students, the parents, the community became informers . . . The prejudices of the community came into play in searching out the disloyal . . . there can be no real academic freedom in that environment . . . It produces standardized thought, not the pursuit of truth. Yet it was the pursuit of truth which the First Amendment was designed to protect . . . The framers knew the danger of dogmatism; they also knew the strength that comes when the mind is free, when ideas may be pursued wherever they lead.[19]

Though this was a dissenting view in the early 1950s, the full Court finally came to agree with it when it struck down the Feinberg law by its decision in *Keyishian v. Board of Regents* (1967).[20] And two years later the Court applied the principles of academic freedom to students as well as teachers. The landmark case was *Tinker v. Des Moines* in which the orderly wearing of black armbands in school by Quaker children to protest the Vietnam war was defined as symbolic speech and thus protected by the First Amendment:

> First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate . . . Students in school as well as out of school are "persons" under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligation to the state.[21]

If these constitutional principles are to be taken seriously as fundamental to the well-being of a democratic political community, and the prime responsibility of public education is to prepare citizens for their civic freedom and

their civic obligations, then what of the rights and freedoms of parents and families to control the teaching of their teachers? I believe that public interest groups and community organizations should be as much concerned to demand freedom of thought for teachers and learners as part of their civic obligation as they are concerned to demand parental and familial rights over the teaching and learning process affecting their children. There is much evidence that community demands for censorship of books and teachers have increased again in the past 20 years. They range from efforts to ban materials offensive to conservative-minded parents on matters of sex or religion or politics to materials offensive to liberal-minded parents on matters of biased minority stereotypes or sex role images of women and homosexuals.

"Freedom from whom" thus poses one of the most difficult, sensitive, and inflammatory of the issues facing the inter-relationships of school-community-home, as the bitter struggles over racial and ethnic inequality in segregated schools have illustrated. Without some guidelines, the cherished freedoms can lead to the corruptions of anarchy, license, and unbridled libertarian individualism, as Aristotle and subsequent advocates of a high ideal of citizenship so often feared. The first principle of justice, according to Rawls, requires that each person is to have an equal right to basic liberties but only so far as compatible with a similar system of equal basic liberties for all. Thus we come to the idea of equality.

Equality

Along with justice and freedom, the idea of equality runs throughout the American creed of value claims for a democratic political community.[22] "All men are created equal" is the first of the self-evident truths of the Declaration of Independence. It even comes before the inalienable rights of life, liberty, and the pursuit of happiness. The idea of equality was a counterpoise in the eighteenth-century struggle for democracy against the tyrannies of privilege and the closed orders of aristocracy and hierarchy. But it is also true that ever since then there has been an almost constant contrapuntal discord between the claims of freedom and the claims of equality.

No one would argue that the founders defined with exactitude what they meant when it was declared that "all men are created equal," but the historian Edmund Morgan argues that the creed of equality achieved a kind of consensus during the Revolutionary period that has had a powerful and pervasive influence ever since:

> The creed of equality did not give men equality, but invited them to claim it, invited them not to know their place and keep it, but to seek and demand a better place. Yet the conflicts resulting from such demands have generally, though not always, stopped short

> of large-scale violence and have generally eventuated in a greater degree of actual equality. After each side has felt out the other's strengths and weaknesses, some bargain, some equivalent to a Northwest Ordinance, is agreed upon, leaving demands not quite fulfilled, leaving the most radical still discontented with remaining inequalities, but keeping the nation still committed to the creed of equality and bound to move, if haltingly, in the direction it signals.[23]

There have been two continuing conflicts over the meaning of equality. Basically, does the phrase "all men are created equal" mean that in fact they *are* equal, or that they should be *treated* as though they are equal? By and large, Americans have generally put their emphasis on equal rights and equal opportunity rather than on enforcing an equality of condition or income, which has been the stated goal of some extreme egalitarian communities and socialist parties in this and other countries. Enforced conformity or uniformity imposed by totalitarian governments becomes a corruption of the democratic idea of equality.

The Fourteenth Amendment puts the idea in terms of the "equal protection of the laws," but it was not until the civil rights movements of the 1950s and 1960s that positive government action was taken to wipe out long-standing legal restrictions on equality of opportunity in education, housing, voting, employment, and in a wide range of civil rights on behalf of disadvantaged and minority groups. The *Brown* decision of 1954 was a landmark in stressing equality of educational opportunity, followed a decade later by the Civil Rights Act of 1964, the Voting Rights Act of 1965, and much else.

As the First Amendment was the charter for freedom, so the Fourteenth Amendment became the charter for equality. It was soon clear to the civil rights movement that a stronger--not a weaker--government would be required to achieve equal protection of the laws in order to overcome the historic discriminations that had resulted when states and local communities practiced "freedom of choice" by allowing dominant local groups to impose their views on their institutions and their schools.

As we all know, the Supreme Court said in 1954 in *Brown v. Board of Education* that the constitutional command of the national political community on behalf of equality must override the freedom of lesser political communities to institute segregational practices. It is well to recall once again the words of the unanimous Court:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures of education both demonstrate our recognition of the importance of education in our democratic society. It

> is required in the performance of our basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms . . .
>
> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs . . . are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.[24]

At the time of the Constitution's Bicentennial, more than 30 years had passed since this fundamental linkage of public schools and the values of the democratic political community was so forthrightly affirmed as a part of the constitutional order. We all know that progress towards its fulfillment has been exceedingly slow and painful. Progress in dismantling the dual system of schools has been ironically slower in the North than in the South, but progress has also been slowed at the federal as well as at the state and local levels. For 20 years the Supreme Court persistently dismissed all kinds of efforts to avoid, obstruct, or undo the decision, even to re-affirming court-ordered busing despite the efforts of Presidents Nixon, Ford, and Reagan to change the effect of the court's rulings by legislation, by constitutional amendment, or by interpretation by the Justice Department itself.

A turning point seemed to arrive in 1974 when the Court, by a 5-4 decision, unparalleled in bitter opinions, ruled that a Detroit plan to achieve a metropolitan solution to school integration was outlawed.[25] For the decade since then, civil rights advocates and black leaders have become increasingly concerned that resegregation may be under way. How much of this is the result of a rising conservative mood, the actual incidence of busing itself as a cause of white flight, or crass political maneuvering is a matter of rancorous debate in public as well as in scholarly circles. A Harris poll in January 1987 reported the startling findings that there had been a dramatic decrease in the proportion of Americans opposed to busing since 1981, especially among younger Americans, namely those who had been bused.[26]

Civil rights advocates had been given a lift by the Supreme Court's decisions in 1979, upholding the orders of lower federal courts to institute large-scale busing in Dayton and Columbus, Ohio, to overcome the vestiges of segregation that had existed for 25 years.[27] The Court reaffirmed its 1973 decision on Denver that said that if a board of education intention-

ally took actions that resulted in segregated schools in one part of its system the presumption was that there was segregation throughout the system.[28] But,meanwhile the hope that desegregation can work if given a fair trial was losing ground. In its report of February 1979 the U.S. Commission on Civil Rights echoed the report of the National Advisory Commission on Civil Disorders (the Kerner Commission) in its prediction that "our nation is moving toward two societies, one black, one white--separate and unequal." A similar refrain was heard in 1988.[29]

The role of the Civil Rights Commission during the Reagan administration would make a vivid story in itself. Its reconstitution in 1983 by appointment of a chairman, a director, and members known to be opposed to busing and to affirmative action led to extreme dissatisfaction among civil rights organizations. Some even virtually advocated its abolishment in preference to its conversion from "watchdog to lapdog," as the headline in *The New York Times* read on October 30, 1985, reflecting the views of Rep. Don Edwards of California, chairman of the House Subcommittee on Civil and Constitutional Rights.

With regard to admissions to graduate and professional schools, the principle that special consideration could be given to race was left ambiguous by the *Bakke* decision in 1978. The Court's decision had it both ways: Bakke had been discriminated against as a white person because the medical school of the University of California at Davis had reserved a number of its admission places for qualified blacks and thus excluded him. He was ordered to be admitted, but the Court also said race *could* be taken into account as a "plus" factor in other circumstances. Thus a "Solomon's decision."[30]

Such a question involves some of the deepest tensions between the freedom of individuals to make personal choices and the obligations of the community to act through law on behalf of equality. Should the opportunity of access to education, which public authorities have historically provided for qualified majority persons (freedom), be limited in any degree in order that the opportunity for educational access be increased for some qualified minority persons (equality) whose group identity has long denied them such access? Does a democratic political community have the obligation to limit a portion of the private freedom of some in order to achieve a more extensive system of equal basic liberties for all? In order to achieve a more just society? I believe that the answer to these questions is yes.

The Supreme Court began to take this position in a series of decisions in 1986 and 1987. It ruled in the *Weber* case that private employers could give preference to black steel workers by reserving half the places in a special training program in order to eliminate traditional patterns of racial segregation and that the historical context of the Civil Rights Act of 1964 intended just such elimination. And in another case in 1986, the Supreme

Court ruled that a Michigan board of education could legally give preference to blacks in *hiring* teachers, but could not lay off white teachers with seniority simply in order to hire blacks.[31] Other cases decided in 1986 and early 1987 began to reject the Justice Department's arguments that *any* use of racial preferences in hiring or promoting of minorities was unconstitutional in a "color-blind" society.[32] Meanwhile, the argument continued in academic circles as well as in the courts. Laurence H. Tribe of Harvard Law School argued against the Meese Justice Department, saying that it has long been recognized that the Constitution is not simplistically color blind.[33]

Finally, in March 1987 came the first unambiguous decisions in favor of affirmative actions in which employers could apply gender and racial preferences in hiring and in promotion in order to make their work force reflect the makeup of the local labor market or population characteristics, even though there was no proof of past discrimination against women or minorities.[34] In upholding the right of the County of Santa Clara (California) to promote a qualified woman as a road dispatcher rather than a somewhat more qualified man, Justice Brennan, however, did not support rigid numerical quotas nor the use of sex or race as the only criteria in employment decisions. Women's activist groups were delighted by the 6-3 decision, noting that Sandra Day O'Connor voted with the majority even though on different grounds from Brennan's.

Two months later, the Court went still further in broadening the scope of civil rights by upholding the right of ethnic white minorities to sue as a legal remedy for proven discrimination in employment, housing, contracts, and property dealings.[35] Thus, affirmative action toward equal protection of the laws for all kinds of minorities was taken a step further. And this time, the appeal was made to the "original intention" involved in the legislative history of the Congressional framers of the hundred-year-old Civil Rights Act of 1866 and its amendment of 1870.

In one case, the rights of a U.S. citizen born in Iraq and in the other the rights of Jews were protected by the older post-Civil War acts, now part of the U.S. Code, as well as by the Civil Rights Act of 1964. Justice Byron R. White for the Court pointed out that the term "race" as used in the 1860s applied not merely to the three categories of human classification used by modern biologists (Caucasoid, Negroid, and Mongoloid,) but applied also to ethnic distinctions within the Caucasoid race. So Arabs, Jews, Hispanics, and numerous other categories of ethnic heritage or national origin could be protected against discrimination. The Reagan administration's broad attack on affirmative action seemed to be stalled, not just by "liberal activists" on the Court, but also by "strict constructionists" and moderate centrists. In the women's case the dissenters were

Justices Scalia, Rehnquist, and White. In the ethnic case, Justice White wrote the opinion for a unanimous court.

And all this happened within three short years after the Reagan administration had won its first significant victory in a civil rights case. In the *Grove City College* case of 1984, the Court had adopted a narrow view of Title IX of the Education Amendments of 1972, which outlawed sex discrimination in educational institutions that receive federal financial assistance. Three previous administrations had assumed that if any part of a college received federal funds, then no part of the college could exercise sex discrimination without losing all federal funds. Instead, the Court now ruled that only the program receiving direct federal aid was covered by the law barring sex bias.[36] Women's groups and members of Congress immediately began efforts to adopt legislation that would clarify Congress's original intention to include a broad interpretation of the affirmative action laws prohibiting discrimination against women in college admissions, athletics, and freedom from sexual harassment. By the end of May 1987 bills in both the Senate and House that would nullify the *Grove City College* ruling had still not been brought to a full vote in Congress.

A very interesting thing has happened to affirmative action. The more the government has been importuned to issue regulations on compensatory education or affirmative action for the benefit of the historically disadvantaged, the more the resistance and litigation have arisen over such regulations; and, the more aggressive the Reagan Justice Department became in opposing affirmative action as "reverse discrimination," the more defeats it has received from the Supreme Court--so far. The continuing tension between the ideas of justice and equality on one side and the ideas of freedom and diversity and privacy on the other side has escalated in the course of the 1970s and 1980s. So many of these tensions have arisen over education policies and school practices that civic education programs for students and teachers now have great resources for study and inquiry easily at hand and explicitly of interest to teachers and students alike--from desegregation and busing to open admissions and affirmative action. The idea of equality need not be studied in purely abstract terms.

If indeed, "all men are created equal" and are entitled to the "equal protection of the laws," a society that permits persecution, or segregation, or discrimination on the basis of race, religion, ethnicity, national origin, or gender is to that extent an unjust society. Gender injustice is the latest to receive scholarly attention.[37] This persistent tension between equality and freedom should be faced in civic education programs as directly and as honestly in all its manifestations as possible. In recent years the tension has become especially strained with regard to the values of *diversity*.

Diversity

I should like to make it crystal clear that I believe respect for diversity and encouragement of a plurality of communities have been among the glories of the best elements of the American political system. Millions of immigrants have been and still are attracted to the United States because of their hope for life in a society that provides greater justice, greater freedom, and greater equality than they knew in their homelands. Of course they hope for greater economic advantage as well. And millions have found their hopes at least partially realized in a country of enormously diverse geography, ethnicity, language, religion, race, and culture.

So, diversity or plurality is one of the major values to be studied, analyzed, and honored in any program of civic education for American schools. This becomes all the more important as large numbers of persons from Latin America, South Asia, and other countries raise the temperature of discussions about bilingual education, making English the official language of various states (as in California) and of the United States. But, like all the other values, diversity has its problems and costs as well as its advantages and benefits. The problem is often simply referred to as the tension between unity and diversity, or order and liberty or the public and the private.

The historical efforts to reckon with diversity have been variously defined: Nathan Glazer refers to the bipolar traditions of inclusivity (welcome all comers) and exclusivity (keep the aliens out or in their place). Robert Wiebe refers to the recurring emphasis on the public and the private in the tradition of social segments in American life. Milton Gordon defines the various approaches to assimilation as Anglo-conformity (be like us or go away), the melting pot (we will all become something new) and cultural pluralism (we will each maintain our identities). And John Higham identifies two persistent approaches that he calls integrationism (eliminate ethnic boundaries in the search for a greater community of the future based on an equality of individuals) and pluralism (maintain ethnic boundaries in the goal to hold fast to the small communities of the past based on the equality of groups).[38]

In recent years several educational views see great values in the reassertion of pluralism. Others have cautioned against excessive pluralistic chauvinism.[39] For myself, I find merit in views that attempt to arrive at a balanced tension between the values of cultural plurality and political cohesion. For example, John Higham speaks of "pluralistic integration" and distinguishes between ethnic *boundaries* that keep people in or out of groups and ethnic *nuclei* that give identity and sustenance to different groups. In this sense, boundaries are permeable, but nuclei are respected:

> In contrast to the integrationist model, it [the pluralistic integration model] will not eliminate ethnic boundaries. But neither will it maintain them intact. It will uphold the validity of a common culture, to which all individuals have access, while sustaining the efforts of minorities to preserve and enhance their own integrity . . .
>
> No ethnic group under these terms can have the support of the general community in strengthening its boundaries. All boundaries are understood to be permeable. Ethnic nuclei, on the other hand, are respected as enduring centers of social action . . .
>
> Many who are concerned about ethnic justice feel pessimistic about the ability of our society to develop the necessary appreciation of diversity. But it is possible, . . . that our greater problem in moving toward pluralistic integration may come in rediscovering what the participants in our kaleidoscopic culture have in common.[40]

The major point of my stress upon civism is exactly to rediscover what political values we have in common as well as redefining the values of plurality. Another view that I believe has merit in threading our way through the tugs between cohesion and pluralism is a distinction posed by Michael Kammen, Cornell historian and winner of the Pulitzer prize for his *People of Paradox*. In his analysis of a plural society, Kammen distinguishes between 'stable pluralism" and "unstable pluralism" as follows:

> . . . "plural society" connotes a polity containing distinct cleavages amongst diverse population groups. Often there will be a dispersion of power among groups bound together by crosscutting loyalties, common values, and a competitive equilibrium or balance of power [stable pluralism]. Equally often there will be a conflict between racial, tribal, religious, and regional groups, to such a degree that the whole must be maintained by regulation and force. Because of the role of authority in any system of domination, there is commonly a psychological pressure upon subordinate cultural segments to deny legitimacy to the imposed order, and to reject law and authority as such [unstable pluralism].[41]

Thus, an unstable pluralism occurs when the cleavages in society threaten the very authority of the polity because of the conflict among racial, ethnic, religious, or regional groups, each of which forms its own political party and has its "own faction, each sect its own school, and each dogmatist his own ideology." On the other hand:

> Stable pluralism requires a strong *underpinning* of legitimacy. A plural society is best insured by the rule of law--law made within the framework of an explicit constitution by elected repre-

> sentatives, executed by a partially autonomous administrative staff, and adjudicated by an independent judiciary. Insofar as all of these were created in 1787 and achieved in 1789, those dates do distinguish a genuine watershed in American history.
>
> But stable pluralism in a democracy also requires a strong and lasting inventory of psychological legitimacy: understanding, acceptance, and pervasive confidence in the composite system necessary to make it run smoothly rather than by fits and starts.[42]

The building of a "strong and lasting inventory of psychological legitimacy" is one perceptive way to define the purpose of civic education for the schools of a democracy in which a plurality of racial, ethnic, and religious communities is acknowledged and even welcomed. One need only note the stark contrast between the United States with all its pluralist problems and countries where unstable pluralism either prevents a psychological legitimacy toward government at all (as in Lebanon) or periodically threatens the stability of the polity (as in India, Sri Lanka, Malaysia, Nigeria, Ghana, Uganda, Northern Ireland, or Spain).[43]

An illuminating illustration of the equal protection guarantees of the Fourteenth Amendment as applying to Hispanic children in Texas was drawn by the Supreme Court in 1982 when it declared unconstitutional a Texas law that would have permitted local boards of education to charge tuition for the children of illegal aliens, thus effectively preventing them from obtaining a public education. For a majority of five, Justice Brennan wrote:

> Public education is not a "right" granted to individuals by the Constitution . . . But neither is it merely some governmental "benefit" indistinguishable from other forms of social welfare legislation. Both the importance of education in maintaining our basic institutions, and the lasting impact of its deprivation on the life of the child, mark the distinction . . . We have recognized "the public school as a most vital civic institution for the preservation of democratic system of government" . . . and as the primary vehicle for transmitting "the values on which our society rests". . . In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests . . .
>
> What we said 28 years ago in Brown v. Board of Education still holds true.[44]

In his dissenting opinion, Chief Justice Burger agreed that it would be senseless for an enlightened society to deprive any children--including illegal aliens--of an elementary education, but he argued it was not the busi-

ness of the Court but rather the business of Congress and the political process to make such a decision. He was joined in this argument by Justices Rehnquist, O'Connor, and White.

The Court's majority ruling takes on added significance in view of the major immigration law passed by Congress and signed by the President on November 6, 1986, whereby illegal aliens who entered the United States before January 1, 1982, could obtain citizenship if they resided here continuously since then. The political process desired by the Court's dissenters eventually resulted in Congress approving $1 billion a year for four years to reimburse state governments for providing public assistance, health care, and education to illegal aliens who gain legal status.[45]

But "the political process" can also lead to the reassertion of a majoritorian nativism that fears or dislikes the inroads of the most recent newcomers. Civil libertarians suspect some such motivations in the rapid expansion of efforts to pass legislation making English the official language in the states as well as in the nation. In the November election of 1986 Californians voted 3 to 1 for an initiative to amend the state constitution prohibiting the legislature from making any law which "diminishes or ignores the role of English" and permitting individuals or groups to bring law suits to enforce the law. Hispanic and Asian and other civil rights groups charged that an organized campaign by USA English played on the fears of voters in such way that it would led to further distrust and divisiveness in society. By February 1987 some 14 other states were considering such laws, and by June 1987 it was reported that this number had increased to 37 states, with flaring animosities evident in several states.[46]

The rapid influx of immigrants from Asia and Latin America along with a change in the views of the U.S. Department of Education under conservative pressures had led to similar and rancorous debates over bilingual education. Hispanics and others were alarmed that nearly two decades of special attention by the federal government to children whose first language was not English were threatened. In 1968 the Bilingual Education Act was passed to give federal aid to local school districts to enable them to meet the special needs of children of "limited English-speaking ability." For much of the time since then, there has been controversy as to whether the bilingual education programs were the best way to enable children to become proficient in English or whether it was a device to keep alive the original languages, or both.

In 1974 the Supreme Court ruled that a school system's failure to provide special language instruction for children whose mother tongue was not English denied them equal opportunity to participate in public education programs and was thus a violation of the Civil Rights Act of 1964. In *Lau v. Nichols* Justice William O. Douglas spoke for the Court without dissent in finding that California had to take special affirmative action to enable

Chinese-speaking children to profit from their school experience; simply providing the same texts and curriculum to all children alike was not equality of treatment.[47]

But since the advent of William Bennett as Secretary of Education in 1984 there has been fractious controversy between the U.S. Department of Education and professionals in bilingual education over whether the best way to develop fluency in English was by use of the native tongue in the transition to English or by "immersion" in English. The conflicts have been more than a little tinged with politics as well as pedagogy. Disputes over the results of research validating or invalidating different methods of classroom approach spill over into charges and counter-charges about the threats of too much pluralism resulting from unassimilated foreign-speakers versus the need to encourage the cultural values of newcomers whilst they acquire the civic values of American citizenship.[48] At root was the basic issue concerning how active government itself should be in achieving a stable pluralism as well as legitimate authority in a democratic society.

Authority

The role of authority can usefully be illustrated for students at all age levels, ranging from the need for rules on taking turns in the kindergarten to the need for laws on stealing, assault, murder, and treason. At the heart of political authority is the difference between sheer power and legitimate or rightful authority. Power is usually considered to be the ability to exercise control over persons or conditions in such a way as to direct their conduct or influence the outcome of an event desired by those in positions of power. The most common examples of sheer power to control events are military force and money.

On the other hand, power becomes legitimate authority when recognized as such and sanctioned by custom, institutions, law, constitution, or morality. Authority in a democratic polity is thus the exercise of influence and command by those in positions of power when done so within the confines of rules made by the consent of the governed and considered over a period of time as legitimate. Robert M. MacIver, long-time professor of political philosophy and sociology at Columbia University, defined authority as follows:

> By authority we mean the established right, within any social order, to determine policies, to pronounce judgments on relevant issues, and to settle controversies, or, more broadly, to act as leader or guide to other men. When we speak of an authority we mean a person or body of persons possessed of this right. The accent is primarily on right, not power. Power alone has no

> legitimacy, no mandate, no office. Even the most ruthless tyrant gets nowhere unless he can clothe himself with authority.[49]

Mortimer Adler nails down the idea in his felicitous phrase "rightful authority." I would underline the fact that the right of an official to make decisions, to determine policies, and to maintain order derives not from the official's private capacity, but by virtue of a right conferred by the society. So the exercise of democratic political authority ideally should be under the constraint of the values of fundamental justice and fairness as well as functioning to insure the greatest amount of freedom and equal opportunity for the individual under rules of due process and with a fair distribution of privileges and resources in the society. Failing these constraints, authority is corrupted into authoritarianism or totalitarianism. Without authority, freedom degenerates into license or anarchy, pluralism becomes unstable, and individuals can be assured of little privacy or due process. And without the accountability of public officials to explain their actions, to justify them, and to take responsibility for them, as was so often reiterated at the Iran-contra hearings, the consitutional restraints on authority are weakened, and tyranny looms.

I would also underline MacIver's broad definition of authority to include the general right of certain persons to act as leader or guide to others. Leonard Krieger, university professor of history at Chicago, points out that the idea of authority "as a consciously constituted or legitimate power to command or secure obedience" emerging during the sixteenth and seventeenth centuries led historians to mark the period as the origin of modern times and influencing the modern idea of citizenship in a nation state.

But he also indicates that there was another meaning of authority that originated in Rome, not so much associated with sheer physical power as with an uncoercive authority associated with persons or knowledge whose trustworthiness and responsibility are a warrant or guarantee that their deliberate judgments, convictions, and decisions are worth following as models or examples.[50] An *auctor* in Latin is a trustworthy writer, a responsible person, a teacher, a guarantor, a model whose ideas and judgments are worth following.

It is in this latter sense of authority as trustworthiness that has been so eroded in recent years. Students have revolted against the authority of schools and colleges, against the authority of government officials, against the authority of parents, churches, business, and other institutions that in the past have claimed the right to guide the conduct and behavior of the young. This is what the Yankelovich survey meant when it referred to "deauthorization" as one of the reasons why both the young and their elders have turned to privatism. It is also in this latter sense of authority that the educational profession has been diminished. It has lost some of the capacity to exert leadership in the education of the public as well as of

students. In the midst of the Watergate crisis, Archibald Cox called on the legal profession to educate the public regarding the impeachment process. He said:

> I am convinced that the legitimacy of the final conclusion in the view of the American people will depend upon the success of counsel and other public men in formulating general standards of conduct fairly applicable to any President, and in educating the people upon their meaning and legal and moral base . . .[51]

In much the same vein, I believe that the educational profession must take the lead in educating the public in the values and commitments required in the civic mission of education. Much criticism has been levied of late at a narrow and self-serving conception of "professionalism" in education as in law, medicine, and business. So, to reestablish its authority as trustworthy, the educational profession may well learn some of the lessons of leadership being developed anew by John Gardner in his Leadership Studies Program sponsored by Independent Sector. In his introductory monograph Gardner uses the term leadership to refer to

> . . . the process of persuasion and example by which an individual (or leadership team) induces a group to take action that is in accord with the leader's purposes or the shared purposes of all.[52]

Thus, Gardner distinguishes leadership from coercion on one side and from authority as legitimized power of office on the other side. A leader is an active *auctor* who thinks in the longer term, looks beyond the immediate constituency, puts heavy emphasis on the intangibles of vision, values, and motivation as well as political skill.

These are large orders to be sure, but it is noteworthy that the concept of authority both as legitimate power and as trustworthy leadership has become a matter for serious scholarly study in recent years. I have already referred to Richard Flathman's analysis of authority and citizenship along with that of many other scholars. But the concept has also had a revival of interest among those in teacher education. Kenneth Benne's seminal doctoral study of 1943 has been republished and evoked considerable discussion and critical comment.[53] David Nyberg's more recent approach to power and authority is another very useful example.[54]

Even radical spokesmen like Henry A. Giroux have taken up the cudgel to define authority in such way as to make it a tool by which "transformative intellectuals" can join forces with oppressed and exploited groups to achieve emancipation from the kind of authority imposed by conservative educators who would return to traditional moral aims of "promptness, truthfulness, courtesy, and obedience."[55] Critical study of a range of such materials would add zest, if not sting, to the usual academic fare on

authority, which is fundamental and necessary but too often is not applied to the theory or practice of civic education.[56] This kind of study would enable the profession and the public to think of authority as more than orderliness or obedience in the "effective classroom".

Privacy

Let me say at the outset that I view privacy as one of the basic pluralist values of a democratic political community along with freedom, diversity, and due process. I distinguish it from the privatism or excessive privatization of public services (including education), which I view as a perversion or corruption of privacy. As freedom includes the right to live one's life in dignity and to seek one's self-development and self-fulfillment, so privacy is the right of individuals and groups to be left alone and to determine for themselves what information about themselves or their actions is communicated to others.[57]

Infringement of this right was one of the most irritating of the eighteenth-century practices that led to the Third Amendment's guarantees against the quartering of troops in private households and the Fourth Amendment's guarantees that the people shall be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. The revelations of the spying activities of the CIA and FBI on American citizens during the Vietnam War and the campus unrest, the Watergate tapes, the Ellsberg trial, and much else have led to new concerns about the protection of privacy. The development of electronic devices has added a *1984* quality to all kinds of business activities (such as computers that keep credit ratings on millions of consumers) as well as those of government agencies. The 1970s gave added bite to George Orwell's inveighing against the invasion of privacy and the unauthorized surveillance by "Big Brother" with attendant "Doublethink," "Newspeak," and "Oldspeak," and the ever present telescreen. The rapid development of technological surveillance led to some of the early scholarly studies of the idea of privacy.[58]

The opening of school and university records revealing grades, test scores, and confidential ratings to the scrutiny of students and their parents are examples of the new concern for privacy in education. The most notable and--as it turned out--controversial legislative protection was the Family Educational Rights and Privacy Act of 1974 sponsored by then Senator James Buckley, Republican of New York, and promoted most actively by the National Citizens' Committee on Education. Reacting to the revelations of Watergate and the unrest of the prior decade, Congress aimed at "opening up institutions," making them more accountable, and protecting the privacy of individuals. The Act denied funds to any school that prevented parents of children under 18 from having access to inspect and review any or all of their school records. Such records may not be released to others without written consent, except to school officials and to

certain federal or state officials in connection with application for financial aid.

The primary intent of the law was to prevent abuses whereby careless or incorrect materials damaging to a student's chances in further education or career were left in the files; and to prevent releasing files to banks, credit agencies, police departments, and the like without the knowledge of the students or their parents. However, many college and university associations, led by the American Council on Education, protested vigorously that there were many ambiguities in the Act and that confidential recommendations would no longer be useful if the teachers and professors knew that the students could read them. As a result, a long process of rewriting the regulations in the Department of Health, Education, and Welfare was required.

But the right of privacy has moved much beyond matters of information about a person that should be kept private from government or outside surveillance. It has been applied increasingly to matters of intimate associations that have been deemed beyond the criminal investigation and punishment by law. While "privacy" is a term not contained in the Constitution or Bill of Rights (just as "education" is not), the right of privacy has been brought by the courts and the Supreme Court under the heading of freedom in the First Amendment, of liberty in the Fifth and Fourteenth Amendments as well as under the Fourth Amendment's protection of the person against search and seizure. The most controversial of these issues in the public eye have had to do with sexual relations, abortion, and homosexuality.

For several decades, the right of privacy in intimate relations among consenting adults has been protected by the Supreme Court when it set aside state laws that seek to place the authority of government on the side of certain traditional moral values regarding marriage and sex.[59] These have had to do with choices fundamental to heterosexual family life involving whether to marry, whom to marry, whether to conceive or bear a child, or have an abortion. The zone of protection of privacy has gradually been widened despite bitter opposition from pro-family, pro-life, and anti-abortion groups. Some believe, however, that the Supreme Court in June 1986 may have stopped the broadening when it made the distinction between heterosexual privacy and homosexual privacy, declaring that states have the right to outlaw private homosexual acts between consenting adults.[60] Some of the most bitter confrontations in the confirmation hearings on Judge Robert Bork arose over his views that the Supreme Court had wrongly ruled that the Constitution protects certain rights of privacy and had overstepped the boundaries of the original intent of the Framers.

While questions of the rights of privacy of students in elementary and secondary schools may once have seemed rather far removed from such

constitutional questions, the demands for "teaching values and morality" have proliferated with the rise in juvenile pregnancy and drug abuse among teenagers. And inevitably, the issues of privacy versus authority and moral values versus excellence have spilled over into the schools. More than one federal judge has had to decide whether a student with a high academic record should be denied admission to the National Honor Society on the grounds that the she was pregnant and thus morally unfit for the intellectual honor. In Springfield, Illinois, District Judge J. Waldo Ackerman decided in 1984 that such an argument violated her rights under Title IX of the Education Amendments of 1972 prohibiting discrimination on the basis of sex and the equal protection clause of the Fourteenth Amendment.[61]

Still more to the point of student privacy from search and seizure was the celebrated case of *New Jersey v. T.L.O.* in January 1985.[62] The case arose when a vice principal in Piscataway High School searched a student's handbag suspecting that she had been smoking in the girls' lavatory, but found evidence of possible use and sale of marijuana. Were her rights to privacy under the Fourth Amendment's protection against search and seizure superior to the authority of school officials to uphold school rules and laws against use and sale of drugs? In a 6-3 decision, the Court affirmed a middle course. It denied that school officials are acting in place of parents *(in loco parentis)* and thus they do not have all the rights that parents have to control and discipline their children. But it also affirmed that school officials must have "reasonable grounds" for believing that their search of lockers and handbags or persons would provide evidence of breaking the rules or the law.

Students thus do have *some*, but not complete, constitutional rights to privacy, while teachers, not being parents, do have the obligation to apply the Fourth Amendment's protection of privacy to students, and thus they are in effect "officers of the Constitution"--and, I would say, are thus teachers of civism. Starting with such cases that apply directly to students and teachers in school, the theme of good citizenship could surely come alive and then lead to serious study in school, college, and teacher education.

If teachers are indeed to become teachers of civism, they need to know that the history of the meaning of the right to privacy for individuals includes an understanding of the obligation of government as well as of individuals to obey the law. In 1928 the Supreme Court upheld the right of the government to use wiretapping without a warrant to gain evidence against a suspected bootlegger named Roy Olmstead on the grounds, at least partly, that conversations were intangible and thus not material things that could be searched for and seized. Justice Brandeis wrote a classic dissent, which spoke eloquently of the government as "the potent, the om-

nipresent teacher" and thus must set the example for all citizens by itself obeying the law:

> Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means--to declare that the Government may commit crimes in order to secure the conviction of a private criminal--would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.[63]

This view of the obligation of government to obey the law eventually was upheld by the Court as early as 1967 and then again in the Watergate crimes. Whether it would continue to be upheld during 1987 in the proceedings and investigations surrounding sales of arms to Iran and of diversion of such funds to aid the Contras of Nicaragua remain to be seen as of this writing. It was certainly clear that charges of the "privatization of foreign affairs" were recurringly disturbing to members of the Congressional Investigating Committees. But it was also clear that other matters of due process were also fundamentally involved.

Due Process

While privacy concentrates on a citizen's right to be left alone, due process has to do with the rights of persons who have been accused of wrongs or injuries they have allegedly committed. Due process values center on the Fifth, Sixth, Seventh, and Eighth Amendments with their presumption of an accused person's innocence and their provisions for protection of individual rights in criminal cases and civil suits at law.[64] In addition to the useful articles on due process in the *Encyclopedia of the American Constitution*, many new materials have been developed on the subjects of criminal justice and civil justice designed especially for use in secondary schools.[65]

Of special interest to educators has been the development in recent years of the concepts of due process as applied specifically to teachers, students, and parents. Again, there are excellent materials available. I think especially of the works of Isidore Starr on due process of law[66] and the compilations and interpretations in the books of David Schimmel and Louis Fischer.[67] Study of these materials focusing directly on due process rights

for students and teachers would be of immediate interest to them and motivate them to go on to the broader realms of adult citizenship.

For example, I should think that students would be fascinated by the "children's rights" movement, which mushroomed with extraordinary speed in the late 1960s and early 1970s. A survey of 24 states by *The New York Times* in October 1976 revealed that cities in all of those states had active legal groups working for children's rights. It was correctly predicted that aggressive advocacy groups would make this a major concern of federal courts and of the Supreme Court in the following decade in the effort to gain due process rights for children that would be protected by the Constitution just as much as adult rights are protected:

> What they hope to do is establish that a child has a right to a safe, stable home, to a reasonable education, to due process of law and to freedom from abuse and neglect. They hope, in other words, to prove that adults and institutions have obligations to the young as well as powers over them.[68]

A landmark case in the Supreme Court was decided in 1967 when the Court ruled that children hailed into juvenile courts must be given the same procedural rights that adults have with regard to notice of the charges, the right to a lawyer, the opportunity to confront and cross examine witnesses, and adequate warning of privileges against self-incrimination. This case had to do with a 15-year-old boy who had been sentenced to an industrial school in Arizona without such protection.[69] But in 1971 the Court ruled that trials by jury were not required in juvenile delinquency cases.[70]

During the course of the next decade the children's advocates gathered momentum both in research and in courts. One of the most active research organizations was the Children's Defense Fund of the Washington Research Project, and among the scores of legal groups the American Civil Liberties Union was prominent. State legislatures and the Congress were prodded to take action, notably through the Juvenile Justice and Delinquency Prevention Act, sponsored by Senator Birch Bayh and passed in 1974, and the Education of All Handicapped Children Act of 1975.

The drive to achieve more protection of due process for children's private rights in the juvenile justice system was directed at students in schools as well as out-of-school youth. The key case here was *Goss v. Lopez*, which involved nine high school students in Columbus, Ohio, who were suspended (during racial demonstrations and unrest in 1971) for up to 10 days without a hearing as permitted under Ohio law. The students charged that the law was unconstitutional under the Fourteenth Amendment because it deprived them without due process of their property (their right to attend school) and of their liberty (by injuring their reputation

without a hearing). In January 1975 the Court declared in a five to four decision the law to be unconstitutional and ruled that students in high school were to be granted due process in suspensions. This must include oral or written notice of the charges of misconduct, an explanation of the charges and the evidence against them, and an opportunity to give their side of the story before suspension from school.[71]

The dissent of four justices, all appointed by President Nixon and including Justice Rehnquist, argued that the injury to reputation by suspension was too trivial to constitute deprivation of a constitutionally protected liberty. The decision was an unwarranted intrusion of the federal courts into what was the proper arena of authority for state legislatures and education officials, i.e., school discipline.

But the Court majority held firm when it ruled a month later in an Arkansas case that school board members and educational officials who discipline students unfairly and without due process by claiming ignorance of students' constitutional rights may be liable for damages.[72] The Court argued that school officials must know the basic unquestioned constitutional rights of students. The same minority of four justices argued that this was too harsh a standard for laymen who serve as school board members and who are generally immune from civil suits for their good-faith actions as public officials. When the character of the Court changed with the retirement of Justice Douglas, the new "Burger majority" began to draw back from children's rights, or so it seemed, when the Court decided in April 1977 that even severe paddling of children in public schools was not a "cruel and unusual punishment" under the Eighth Amendment.[73]

I have stressed the due process rights of children and students in this section principally because it may be a subject that would quickly enlist the interest of students, but there is, of course, a vast literature on due process for adults, illustrated by the *Encyclopedia* articles listed in Note #64. Teachers and officials of public schools have now been put on notice that they must be concerned for the due process rights of children as well as their own. They need to be as clear as possible about the relative allocation of power and responsibility among the parents, the child, and the state whose officers they are. It is now clear that children have constitutional rights as well as adults, and that the state may not be too intrusive into the parent-child relationship, but the state also has the obligation to protect children, when necessary for the child's welfare, even against the parents if they neglect or abuse the child. Children do not have all the due process rights that adults have, but they do have more than they did before *Goss*.

Property

The purpose of including property rights as a table of civism is not to suggest that students or teachers must take law school courses in property or contracts, but rather to recognize the concept of property and ownership as a basic element in the forming of the American republic and to know some of the fundamental changes that have taken place during the past two hundred years. The emphasis is here not on a course in economics, or free enterprise, or comparative economic systems. Some excellent materials for school use have been developed along these lines, and California has now required a course in economics as part of its three years of history/social science to be required for graduation from high school.[74] Twenty-seven states now require some form of instruction in economics and 15 states require a separate course.

The emphasis here, I believe, is rather upon the rights and responsibilities of ownership of property in a democratic society, the relationships to ownership of individuals, groups, and the state with regard to matters of justice, freedom, equality, authority, privacy, and due process. Rudimentary concepts of "what's mine", "what's yours," and rules about acquiring, using, transferring, and disposing of tangible properties can be developed in early years of schooling, as the materials developed by Law in a Free Society have shown.[75] Rules against stealing, damaging, destroying the property of others and how arguments should be settled, equity achieved, and by whose authority play a large part in early schooling. The inclusion of intangible property (such as ideas or benefits or entitlements or labor) along with tangible property then leads to further consideration of the rights and responsibilities regarding property, the scope and limits of ownership, and other major subjects of legislative and judicial concern since the founding of the republic.[76] It is clear that most of the founders believed that property and liberty went hand in hand.

I can only hint at a most complex and controversial subject by referring to a few recent articles that illustrate a range of views. In an article on "The Commercial Republic" Betty Southard Murphy, former chairman of the National Labor Relations Board, recalls how Madison and Hamilton drew from David Hume, Adam Smith, and John Locke to argue that property was a natural right and its security was a primary object of civil society in general and of the new American Constitution in particular.[77] Property was closely allied with liberty; government was to protect property as a means of protecting liberty; but government also needed to regulate commerce and property in the interests of protecting liberty and the common good. She further indicates how the coming of the industrial revolution, capital investment, and corporate monopolies led to the regulatory actions of Congress from the Sherman Antitrust Act of 1890 (really in keeping with the original philosophy of Madison and Hamilton) to the social legisla-

tion of the New Deal, a trend that the Supreme Court eventually approved.

Jack P. Greene, historian at Johns Hopkins, emphasizes the preeminence of private concerns in the colonial period emphasizing the "pursuit of happiness" over the pursuit of public office or "even the active occupation of a public space." So government in early America was conceived largely as a means to protect individuals from each other:

> Even more important, it was an agency for the protection of one's individual property in land, goods, and person, one's property in person including the right of striving, of pursuing (as well as protecting) one's interests, of seeking to alter one's place on the scale of economic well-being and social status.[78]

But, Greene points out, the American Revolution wrought a radical change. Prompted by bitter resistance to British regulation of trade and imposition of taxes, the War nevertheless resulted in unprecedented intrusion of the newly independent states into the traditional private realms. Through taxes, war service, restraints on trade among the states themselves, restraints on trade of the states by foreign countries, and lack of a strong central government all led to intrusive interventions by state legislatures that seemed to threaten the security of property, money, credit--and liberty of individuals and minorities at the will of majorities in state legislatures. Thus, the federal Constitution was designed at least in part to free persons and property from intrusion by the state governments.

Charles A. Lofgren follows on by emphasizing how the commercial problems among the states under the Articles of Confederation led to granting of powers to Congress in Article I, Section 8 of the Constitution "to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes." The twist of his argument, not often realized, is that the commerce clause was used by Congress in the Civil Rights Act of 1964 (and subsequently approved by the Supreme Court) to justify the federal government's role in protecting civil rights of interstate travelers regarding segregated accommodations and restaurants.[79]

And Kenneth M. Holland, political scientist at the University of Vermont, carries the argument to the new meanings of property increasingly defined under the welfare state to include social benefits and entitlements (including education). He refers to a formative article in 1964 by Charles Reich who argued that welfare benefits were no longer a charity or government largesse, but a new kind of property embracing rights that cannot be withdrawn or withheld without due process of law.[80] There is, of course, much controversy and debate over such broadening of the conception of property rights, whether justified on grounds of due process, privacy, equality, civil liberties, or justice. All the more reason for students and

teachers alike to study these issues along with the other tables of civism. All the better to judge how far we have come from the compromise of the Constitution that regarded slaves as 3/5 of a person and the *Dred Scott* decision where they were viewed as non-persons, as tangible and exchangeable property belonging to another, the ultimate corruption of property rights.

James McGregor Burns and Richard B. Morris, co-chairs of Project '87, have included "Property Rights and Economic Policy" as one of the thirteen enduring constitutional issues. Under the heading "*The Constitution and the Economy*," they state:

> Can the Constitution be utilized more effectively to provide economic security and promote the well-being of all Americans?
>
> The Constitution was created not in a vacuum, but largely in response to the severe depression which the Articles of Confederation were powerless to arrest. Hence, the charter granted to Congress powers over commerce and taxation and included various fiscal prohibitions on the states in the full-faith-and-credit clause, the export-import clause, and the clause against impairing the obligation of contracts...Thus, from the start the government was a friend of private enterprise. The degree to which the Constitution has been employed to promote business enterprise and yet discipline its abuses has varied with national administrations and the personnel of the federal courts. But the power to promote the general welfare resides in the Constitution, and its use depends finally upon the public conception of its necessary and proper functions, especially in the times of economic crisis. Are we satisfied with its performance today?[81]

This brings us to the role of public opinion and participation.

Participation

The idea of participation has undergone a great deal of modification since the Declaration of Independence asserted that the just powers of government derive from "the consent of the governed" and the Preamble of the Constitution made it clear that "We, the People" are sovereign. Much of the original notion of popular consent and of sovereignty of the people rested on the idea that the citizens would participate directly in the making of the laws and indeed in the making of the fundamental contract known as the Constitution itself. But the idea of citizen participation had to change from the days of a Greek polis with its few thousand citizens or a New England town meeting with its few hundred citizens. Debates over the meaning of democracy as direct participation by the entire body of citizens contrasted to a republic, meaning participation through selected

representatives, has continued from the Constitutional Convention and the *Federalist Papers* down to the present time.

I am arguing here that the *idea* of participation as a key value in a democratic political community should be studied, debated, and discussed by students and teachers along with the *practice* of participatory experience as illustrated in the citizen participation movement in general and its counterpart in community action programs for students in schools. In addition to political campaigning, voting, and lobbying, "participation" of a more direct and active sort has become increasingly important since the decade of the 1960s. After all, sit-ins, lie-ins, mass demonstrations and marches, freedom rides, and civil disobedience were a critical part of the practice of participation in the civil rights movement. Draft-card burnings, demonstrations, and disruptions on college campuses highlighted "participatory democracy" when it became a by-word of the New Left movements of the 1960s and 1970s. The justification, costs, and benefits of these forms of a more direct participation movement along with those being advanced by thoughtful political scholars should be the subject of careful study and analysis in school and college.

But there is another model of participation that its advocates argue is more appropriate for the conditions of a modern technological society where the issues are so complicated that direct decisions by the masses of citizens cannot be the rule. In other words, a representative model of participation should be revitalized to take better account of the expertise of professionals who, along with elected officials, are held accountable by the public. In the mid-1970s, a good example of this model, along with criticism of direct participation reforms, was given by the late Stephen K. Bailey, political scientist in education and social policy at Harvard. He was reacting to the excesses on the campuses as well as the excesses of Watergate:

> Fundamental to the success of a free society is widespread citizen participation in the political process. This participation may include voting; party and interest-group activities; performing such public functions as jury duty, testifying as a witness, and serving on public boards and commissions; and carrying out honorably the mandates of obeying laws and paying taxes. Beyond this participation, citizens contribute to the polity by keeping informed about public affairs and by sharing their views with other citizens and with elected representatives. An independent press and a rich smorgasbord of information purveyed by television, radio, journals of opinion, and books, are essential to the maintenance of a politically literate society.
>
> Much of the real power of citizens, however, is latent. It lies in the perpetual threat to politicians of retribution at the polls if citizens,

otherwise passive, are outraged by the direction or corruption of public life . . .

For reasons that are understandable in the sociology of reform, the air is filled with romantic half-truths about the possibilities and desirability of extending and increasing direct citizen participation beyond the activities and latencies just listed. Because the nation has recently been burned by abuses of power, some high-minded reformers and concerned educators have developed ("refurbished" is a better word) a democratic litany as superficially plausible as it is operationally specious and even dangerous. Two propositions seem to dominate: first, citizens should, wherever possible, participate directly in all political decision making; second, where they cannot participate directly, the decision processes of their representatives must be open to detailed and continuous public monitoring . . .

Because of the ultimate capacity of American citizens to make wise fundamental value choices, attempts to induce them into making superficial technical choices are ill-advised. Representative legislators and officials are supported by an educated bureaucracy, informed by myriad interest groups and experts, checked by an independent judiciary and a free press, and held accountable to the larger public through periodic elections, intermittent correspondence, and occasional face-to-face meetings. All this constitutes not *only* a reasonable apparatus for conducting modern public business in an economically and technologically complex free society like the United States, but also the *only* reasonable apparatus . . .

. . . democracy is meaningless if responsible majorities cannot be formed and given the power to govern. This is why the health of American political parties--the great organizers of pluralities and majorities--is so important. This is why the antiparty sentiments of the American public are so dangerous. America's general ignorance about the significance and the workings of its party system is a defect so serious as to threaten the viability of the entire democratic enterprise.[82]

In this same statement Bailey goes on to put great emphasis on the development of political skills in civic education programs. Here he is close to the civic action programs proposed among many others by Edward Schwartz, city councilman in Philadelphia, and Fred Newmann, professor of education at the University of Wisconsin-Madison. But Newmann has trouble with Bailey's representative approach, which I believe he would call a "pluralist elitist model" of participation.[83] Newmann argues,instead, for more emphasis on what he calls a "participatory idealist

180

model" in which citizens, especially at the local or "micro" level, participate directly with others of like-minded concern for the common good. A sense of community can thus be achieved in ways not possible at the massive "macro" level of national or international issues. Newman argues for revitalizing the "mediating institutions" (families, neighborhoods, churches, and voluntary organizations) that stand between the individual and the Goliaths of the corporate and governmental bureaucracies.

I am drawn to both of these views and hope that a defensible conception of participation can be worked out to take account of both, i.e., by increasing the role of mediating structures, including more attention to schools as nuclei for such structures at the local level, and by reinforcing the representative accountability of elected officials at the state and national levels. I confess that after living in California and witnessing Proposition 13 in 1978 and a rash of initiatives placed on the ballot since then, I tend to agree with Bailey regarding strengthening the party system and accountability of an open legislative deliberative process. "Direct participation" can be manipulated by special interests, selfish purposes, and massive expenditures as readily as unbalanced lobbying can achieve similar purposes through private pressures on legislators. Initiatives designed to amend constitutions by bypassing the deliberative process in legislatures, special conventions, or the courts can be as destructive of the public good as a singular reliance on legislative majorities or bureaucracies can be.

But I have also been heartened by a revitalizing of the movement to increase direct involvement of citizens and to increase the effectiveness of direct participation. A growing body of scholarly underpinning for this trend has begun to replace Bailey's undisguised contempt for the "romantic half-truths" of the starry-eyed reformers of the 1960s and early 1970s. One of the most persuasive of the more recent reformers is Benjamin R. Barber, political scientist at Rutgers, whose *Strong Democracy* has received wide attention.[84] He argues that representative democracy is scarcely democracy at all and that a strong form of participatory democracy of genuine self-government is not only compatible with the Constitution but the conditions of modern technological society. Ten of his proposed reforms are listed here:

1. A national system of neighborhood assemblies to stimulate local discussion and deliberation, meeting often, and limited initially to being "talk shops."

2. A national civic-communication cooperative using technology to stimulate discussion of regional and national issues through telecommunication networks.

3. A civic videotext service and civic-education postal act to provide free and equal access of all citizens to TV channels for cable companies to air

news, forums, and data, and for the postal service to distribute newspapers, journals, and books.

4. Selective experiments to involve more citizens informally as surrogate judges in the system of deciding minor civil disputes and criminal offenses.

5. A national initiative and referendum process to go beyond polling and discussion and exercise the power to make decisions regarding national issues on a multi-choice basis (not just yes or no) and based on more than one "reading" of such inflammatory issues as abortion and as complex as nuclear freeze.

6. Selective experiments in electronic balloting limited at first to polling rather than final voting.

7. Selective use of election to minor offices by lot, widely used in Greek city-states, used with caution but providing checks on the elitist models that favor wealth and power in election campaigns.

8. Selective experiments with voucher systems to increase choice in schooling and housing, despite the dangers of libertarian privatizing of choice. (I found Barber's warning of the dangers of relying on the invisible market system more persuasive than his suggestion for its use in a voucher system.)

9. Universal citizen service including the option of military as well as non-military training and service, for one or two years for all citizens between the ages of 18 to 26. A particularly interesting aspect of this proposal is a three-month training period including civic education in history, elementary social science, and parliamentary skills in preparation for urban, rural, and international projects (like the Peace Corps). Barber views citizen service as the most vital to strong democracy.

10. Common action programs in the workplace and in the community along the lines of the cooperative movement.

Barber concluded his article in *The Atlantic Monthly* (from which these ten points are taken):

> In sum, the potency of the reforms offered here lies in their capacity for reinforcing and balancing one another when implemented in concert. Adopted piecemeal, they would be assimilated into the representative system and used to further alienate, privatize, and disenfranchise citizens. They might even come to undermine the safeguards of liberal democracy. But taken together, these strong democratic institutions would resist the totalitarian temptations of collectivism and majoritarian tyranny no

> less than they would resist privatism and elite manipulation. They would check one another even as they strengthened participation, and they would reflect the force of traditional constitutional arrangements even as they served to enhance the quality of citizenship. The idea is not to do away with our democracy but to make it work.[85]

Some significant evidences of making democracy work along the lines of public participation are the National Issues Forums sponsored by the Domestic Policy Association under the stimulus and leadership of David Mathews, president of the Kettering Foundation. The network of several hundred organizations in DPA includes colleges, universities, and schools; libraries, museums, and historical associations; churches, synagogues and theological centers; community television stations; civic and professional organizations; student groups and senior citizen centers. The Forums are decentralized and autonomous, but they all discuss the same three issues each year, based on issue booklets prepared by the Public Agenda Foundation, which provide a basis for reading and discussion. Members of the Forums then meet at one of the presidential libraries and in Washington to bring the fruits of their discussions to the attention of national policy makers. But schools are not neglected. Especially pertinent here is the cooperative program with the National Council for the Social Studies to bring discussion of public policy issues into the social studies classrooms.

And a crucial long-range aspect of the National Issues Forums is that, since their beginning in 1982-83, they not only discuss such vital current issues as freedom of speech, the trade gap, U.S.-Soviet relations, health care, jobs and joblessness, social security, education, the deficit, environmental protection, nuclear arms, the farm crisis, crime, and immigration, but they also attempt, in David Mathews' words, to

> . . . renew in people an understanding of the principles of democracy in a way that will lead to more effective citizenship. Actually, that purpose is more fundamental than knowing about issues. There is reason to believe that it is difficult to understand major political issues without understanding the precepts on which our democracy was founded.[86]

To that end Mathews and his associates at DPA and the Kettering Foundation drew up a very useful publication on the principles and practices of democracy, which is used in the training of teachers as well as the Forum leaders. It not only presents Mathews' views on public participation, public talk, public knowledge, public judgment, public power, and public leadership but also contains a significant collection of extended quotations from historical sources like Pericles, Hobbes, Locke, Jefferson, Mill, Rousseau, and Tocqueville as well as from the new scholarship on citizenship, including Hannah Arendt, Benjamin Barber, Ronald Beiner, Bernard

Murchland, Parker Palmer, Kenneth Prewitt, Michael Sandel, and Michael Walzer. Not least in importance are the citations in the bibliography of Mathews' own writings on civic intelligence.[87] And not least in the lexicon of "public talk" is the necessity of being able to have access to and discern reliable and valid knowledge.

Truth

On occasion I speak of "significant" truth in dealing with this table. Truth is truth, isn't it? The reason is that I have long been struck by the phrase as it was used by my former colleague at Teachers College, Lyman Bryson, a most effective leader of adult education discussions in forums, radio, and eventually on TV. After his retirement, Bryson edited a book that only a Renaissance man would attempt. He attracted a stellar group of physical scientists, social scientists, philosophers, and artists and authors to produce nothing less than *An Outline of Man's Knowledge of the Modern World*. In his introduction, Bryson coined the following phrases that have continuing relevance to civic education:

> Modern man knows that knowledge is salvation. He realizes that he must learn to distinguish between the significant truth and the plausible falsehood or beguiling half-truth if he is even to survive.[88]

In an earlier section of this book, I tried to illustrate some examples of a "plausible falsehood" and "beguiling half-truths" in dealing with the history of the First Amendment, religion, and education. And we heard much in the Iran-Contra hearings of "plausible deniability". But the point here is that I am especially concerned with the public aspects of truth-telling and its importance for the security of a free society. Bryson's words continue to bear repeating:

> It may still be true, as Alexander Pope wrote, that "a little learning is a dangerous thing," but we must also remember that those who are ignorant are always enslaved by those who know. Free men have the responsibility to choose their own way with the best knowledge they can get.[89]

The dangers of popular ignorance have been clear to see since the decay of the Greek democracies:

> The educated classes became more and more learned and more and more alienated from the people. And the people fell prey to superstition, to fears, and to half-knowledge. As will always happen, there were clever and plausible demagogues fully prepared to take advantage of such weaknesses, and the Greek city-states were on their way to destruction. There are always three ele-

ments in any such situation in any country. They are the general public, more or less informed; the educated group, more or less aloof; and the politicians who, looking for a way to enrage the people against the "egg heads," take over. It can happen anywhere. And it can happen at any time.

Knowledge, freely available to a people who have the right and the will to use it wisely, is the only real safety this world provides. Freedom of the mind is the foundation of all other freedoms, and if it is lost the others are soon found not worth keeping.[90]

If we accept freedom of access to knowledge as the very basis of a democratic society, then the reliability and the validity of public knowledge become of primary importance. The search for truth becomes one of the major goals of democracy. As Meiklejohn put it:

When men decide to be self-governed, to take control of their behavior, the search for truth is not merely one of a number of interests which may be "balanced" on equal terms, against one another. In that enterprise, the attempt to know and to understand has a unique status, a unique authority, to which all other activities are subordinated . . . One might as well speak of a judge in a courtroom as balanced against the defendant. Political self-government comes into being only insofar as the common judgment, the available intelligence, of the community takes control over all interests, only insofar as its authority over them is recognized and is effective.[91]

This "search for truth" and respect for truth should begin with the young child, the parent, and the teacher as they try to distinguish the "small fib" and the "white lie," which, while doing little harm to others, may become the "big lie," which may do irreparable harm to others. Then we come to the distinction between a falsification that arises from ignorance, partial knowledge, or mistake and the falsification that is deliberately undertaken with the intention to cover up one's own actions, to control the actions or beliefs of others, or to do actual harm to others. Thus, the laws against perjury and libel incorporate into the polity the moral sense that truth is better than lying and that deliberate untruths are punishable for the sake of the common good and public welfare.

The study and practice of truth-telling become mandates for civic learning at every stage of education for citizenship, not only on the legal stage of "telling the truth, the whole truth, and nothing but the truth," or the philosophical and scientific stage as defined by Mortimer Adler, preeminent encyclopedic philosopher for 50 years:

> Just as the truth of speech consists in the agreement or correspondence between what one says to another and what one thinks or says to oneself, so the truth of thought consists in the agreement or correspondence between what one thinks, believes, or opines and what actually exists or does not exist in the reality that is independent of our minds and of our thinking one thing or another.[92]

In this complex and confusing arena of where, how, and why the truth should be told or not told, I can only hint at two aspects deserving of careful study. One has to do with the rights and responsibilities of citizens in seeking or telling the truth about one another; but even more important is the role of government in revealing or hiding the truth from its citizens.

On the first point, I recommend for starters a book entitled *Speaking and Writing Truth* by Robert S. Peck and Mary Manemann, staff members of the American Bar Association's Commission on Public Understanding About the Law. The book is designed to promote study of such topics as libel, obscenity and pornography, censorship of school library shelves, freedom of assembly and group libel, national security and the press, and legal issues involved in the confidentiality of newspaper reporters' sources. The book suggests various formats for such study, such as mock legislative hearings, town hall meetings, mock trials, and formal debates. Especially useful are the memoranda stating the latest constitutional interpretations affecting each topic.[93]

The second point is not only fraught with fundamental legal and constitutional principles but the most serious political values involved in the control of knowledge and truth by governments. A vast literature has accumulated, especially since World War II, documenting the ways in which totalitarian nations, both Communist and Fascist, and military dictatorships of virtually every hue have enforced controls over the flow of information and use of falsification and lying when it served the purposes of those in control. Deliberately deceiving the public is the essence of a closed society; every coup is immediately accompanied by closing down newspapers and taking over radio and TV stations. We have learned to expect the strangling of truth by dictatorships of the Left and the Right.

What is even more troublesome and alarming is the mounting concern about lack of truth-telling and "plausible deniability" by the governments of democratic and free societies. Major examples in the United States stem from deceptions about Vietnam emanating from the government under Lyndon Johnson, the attempted cover-ups of Watergate under Richard Nixon, and the still unresolved attempts at "disinformation" over Libya in 1986 and the drawn out investigations about who did and who did not tell the truth about Nicaragua and Iran in 1986 and 1987 under the Reagan administration. When trust in the veracity of the presidency and of major

government officials declines, the very foundations of a free society are at risk.

As we emerged from the McCarthy era of slander, falsification, and lying, Walter Lippmann wrote in 1954:

> . . . there are rules of evidence and parliamentary procedure, there are codes of fair dealing and fair comment, by which a loyal man will consider himself bound when he exercises the right to publish opinions. For the right to freedom of speech is no license to deceive, and wilful misrepresentation is a violation of its principles. It is sophistry to pretend that in a free country a man has some sort of inalienable or constitutional right to deceive his fellow men. There is no more right to deceive than there is to swindle, to cheat, or to pick pockets. It may be inexpedient to arraign every public liar, as we try to arraign other swindlers. It may be a poor policy to have too many laws which encourage litigation about matters of opinion. But, in principle, there can be no immunity for lying in any of its protean forms.[94]

It should be said that the principle applies no less to those in government who lie to the citizens than to those private persons who swindle on the stock market or on television. Citizens who cannot distinguish between significant truth and plausible falsehoods, beguiling half-truths, or outright lies cannot retain their freedom. Nor can a government that lies to its citizens continue to serve justice and equality, maintain its legitimate authority, or even expect loyalty from its citizens.

Patriotism

This is one of the most difficult of the cohesive values to make clear and persuasive to American students and teachers in the light of the traumatic events of the past two decades. Our predecessors from the time of the American Revolution spoke of the individual's obligation for the public good in terms of civic virtue, of military service, and of patriotism and loyalty to the new emerging nation as well as duty, discipline, and obedience to moral and religious commandments. These were powerful sanctions for civic education programs for generations, but they have been weakened in the past 50 years.[95] The military defense of the nation as a reason for civic education probably reached its peak in World War II, when a vast majority of the American people genuinely believed that defense against the Nazi and Fascist aggression and the inhuman persecution of minorities justified war on moral grounds.[96] But the Korean War seemed less immediately critical to the safety and security of the United States; and the Vietnam experience convinced large numbers that it was an immoral war and thus not justified as a reasonable cause for patriotism or military service.

In a quite different way, religious sanctions for civic education have also declined, largely as a result of the very religious and sectarian diversity that made necessary the secularization of public schools and the withdrawal of direct or devotional religious instruction. And the ideological cold war against world-wide communism as a rallying ground for patriotism and civic education, which was so virulent in the McCarthy era,[97] was somewhat muted during an era in which not only co-existence with the Soviet Union but detente in military competition and efforts to conclude strategic arms agreements took on high priority in foreign affairs of both Republican and Democratic administrations. Opening of cultural relations programs with the Soviet Union, the Peoples' Republic of China, and other communist nations reduced the value of anti-communism as the principal justification for civic education. The international crises over terrorism, Lebanon, Libya, Afghanistan, Nicaragua, and Iran began to stoke anti-communism in the 1980s, but, curiously, this did not become a major stimulus to civic education as it had in the past.

A sense of obligation and responsibility manifested by loyalty, patriotism, discipline, and duty is still needed as a social and political glue if the very structure of the democratic polity is to persist, let alone thrive. The schools, of course, cannot alone instill values of personal obligation and responsibility if and when the other major social institutions are preaching and practicing advancement of self and private interests, an argument so persuasively advanced by Robert Bellah and his colleagues.[98] But this is no reason for the schools not to try, by reassessing what they can do and by seeking the aid of all community and public groups that are committed to the value claims of the democratic polity.

My argument is essentially that loyalty, patriotism, discipline, and duty should be defined in terms of the richest fulfillment of the total set of democratic values in the Twelve Tables of Civism. The qualities of obligation or responsibility, now often thought of as old-fashioned or out-of-date, should be judged by the extent to which individuals seek to put them into practice in their own lives and are ready to defend or promote for others the concepts of justice, freedom, equality, diversity, authority, privacy, participation, due process, significant truth, property rights, and international human rights.

The time is past due for bringing patriotism out of the educational closet. The eminent American historian, Merle Curti, put it much more delicately in the Preface to the reissue in 1968 of his *The Roots of American Loyalty*:

> The related ideas of "Americanism," patriotism and loyalty have held a large and important place in our public thought and discussion. When this book was published in 1946 no systematic study had been made of either the roots or the growth of American patriotism and loyalty . . . Perhaps the academic world felt that

> the whole matter of patriotism belonged to the twilight zone of the intellect.[99]

Yet, there are signs of a growing effort on the part of some elements in the academic world to bring patriotism out of "the twilight zone of the intellect" and into the daylight of scholarly analysis as well as public discussion.

This is the major contribution of *The Reconstruction of Patriotism* by Morris Janowitz, Lawrence A. Kimpton, Distinguished Service Professor in the Department of Sociology and in the College at the University of Chicago. The book will be viewed with suspicion by some in the educational profession simply because they assume automatically that anyone who believes in patriotism as a political value must be coming from a conservative or reactionary ideology. Some historians of education will find fault with some of his history of citizenship education (as I do). Some social scientists will reject his arguments that behavioral and empirical opinion research has damaged education for citizenship, and many will think, "Here we go for indoctrination again."

But I believe that this book should be carefully read, critically analyzed, and used as a springboard for forthright discussion and research to improve our present understanding of patriotism, what role schools should play in promoting civic knowledge and commitment to democratic values, and what appropriate responsibility rests with those who prepare teachers in colleges and universities.

I believe that his book is also important, because it, like Curti's, makes explicit that any defensible conception of citizenship in a democracy must take account of the dynamics as well as the dangers of patriotic sentiments and loyalties and must spell out the educational means by which they are nurtured and energized. Curti defined patriotism as "love of country, pride in it, and readiness to make sacrifices for what is considered its best interest."[100]

At the very beginning of his book, Janowitz relates the idea of allegiance and obligation directly to the idea of citizenship and civic education:

> A citizen is a person who owes allegiance to a specific government and is entitled to protection from that government and to the enjoyment of certain rights. It is widely recognized that effective citizenship rests on a rigorous and viable system of education which informs the individual of his civic rights and obligations. The long term trend, however, has been to enhance citizen rights without effective articulation of citizen obligations. To restore a meaningful balance between the two is, in my view, the core issue in citizenship and civic education.[101]

The theme of "restoring a meaningful balance" between rights and obligations runs throughout the book. It is a theme that is readily applauded by conservative sources, whether organized on a large scale by politicians in Washington, business, or religion, or whether rising from myriad localities, schools, and families in the call for more discipline, responsibility, hard work, and character. But it is a theme that deserves better than knee-jerk rejection by liberals or mindless acceptance by conservatives.

In the bulk of his book Professor Janowitz deals with the major institutions for civic education: military service as civic education; civic education in school and college; and national or community service as agencies of civic education.

While the sections devoted to schooling may be of greatest interest to educators, it is salutary to be reminded of the role of the citizen-soldier in the American Revolution in which "military service emerged as the hallmark of citizenship and citizenship as the hallmark of political democracy."[102] Janowitz argues that with the decline of universal, obligatory military service through conscription and the rise of an all-volunteer (or mercenary) force, the contribution of the armed forces to civic education has also declined. With regard to the idea of national service, Janowitz speaks wistfully of the Civilian Conservation Corps and the failure to update the CCC as well as the Job Corps, VISTA, the Teacher Corps, and the Peace Corps.

Perhaps Janowitz was more prophetic than he knew. There are signs today of a revival of enthusiasm for public and community service on college campuses. New interest in youth service is illustrated in a research study completed in 1986 for the Ford Foundation by Richard Danzig and Peter Szanton in which four models are outlined: mandatory school-based programs; a national draft, including an option for military or civilian service; federally supported all-voluntary service (as introduced by Congressman Leon Panetta (Democrat, California) in the 98th, 99th and 100th Congresses); and universal service that could be completed at any age.[103]

Finally, in his chapter on "Academic Frontiers in Civic Education" Janowitz argues that the decisive element in weakening civic education after 1945 was the increasing reliance upon the behavioral sciences and a behavioral science analysis of contemporary society: "In effect, civic education became mainly the study of a series of discrete "social" and "political" problems plus an overview of contemporary patterns of political participation and attitudes;" and "the social science base of civic education increasingly ignored the balance between rights and obligations".[104]

In summary, Janowitz puts the matter this way:

> Social and political realism cannot substitute for self-critical patriotism and enlightened nationalism that is, exposure to the materials of civic education designed to enhance civic consciousness. In short, if civic education is designed to prepare the student for responsible social and political obligations, it must be more than a series of calls for increased political participation.[105]

This is in effect calling for a more normative approach to the idea of citizenship and to civic education. It represents a growing and, I think, a most important recent trend by liberal as well as conservative journalists and scholars in several of the academic disciplines who are seeking to reformulate a valid normative meaning for citizenship.

I can mention only a few examples of a renewed interest in patriotism across the spectrum of ideological and political points of view: Michael Walzer's course on political obligation at Harvard in the late 1960s; political scientist Duane E. Smith (UCLA) on the case for patriotism in 1973; John W. Gardner on patriotism in his book on *Morale* in 1978; Norman Lear on founding People for the American Way in 1981, exclaiming "Call me a liberal or a moderate or a progressive, but it's my flag too;" Jack Beatty, in 1981 an editor of *The New Republic* and now a senior editor at the *Atlantic*, on "The Patriotism of Values" that are liberal and humane and should not be given away to conservatives; R.W. Apple, Jr. on "New Stirrings of Patriotism" upon returning to the United States in 1983 after seven years in London for *The New York Times*; Republican Senator Orrin G. Hatch on "Civic Virtue" as he viewed the founders of the republic; Neely D. McCarter, president of the Pacific School of Religion, calling on the mainline churches of America in 1986 to reaffirm their role in promoting patriotism; and the call by a newly organized Patriotic Majority to enact a patriotic agenda for the 100th Congress beginning in 1987.[106]

The patriotic revival associated with President Reagan's appeal in the early 1980s, the invasion of Grenada in 1983, the Olympic Games of 1984, and innumerable campaign speeches in 1984 apparently had given the patriotic edge to conservatives. The direct attack by the Patriotic Majority on the policies and actions of the first six years of the Reagan administration warned that liberals would make a "rebirth of patriotism" a fundamental plank in their agenda for foreign and military policies, economic and environmental policies, civil liberties, and international human rights.

The longer term test, however, will be whether American education can strengthen the sense of community and cohesion among succeeding generations through stress upon civic virtue and personal obligation for the public good without weakening the struggle for freedom, diversity, due process, and human rights. The closet door may be opening a bit in the academic world and in the public press, but the task of reconstructing the idea of patriotism and citizenship is formidable, and the task of designing

appropriate educational programs dedicated to "civic consciousness," or "civic intelligence," or "civic learning" is even more monumental. Important as Fourth of July statements may be, useful as scholarly analysis like that of Janowitz and others undoubtedly is, the real burden of carrying out long-term effective programs of civic education rests with professionals in education collaborating with their academic and public counterparts.

The book by Janowitz and the shorter articles mentioned here may help to legitimize debate about patriotism and citizenship in the academic world, but they do not formulate curriculum content or substance for educational programs in the schools, in the colleges, or in teacher education.

Human Rights

Today, the obvious interdependence of the world requires that civic virtue or patriotism should encompass a wider moral element than only the need to defend the American public order when it is threatened from within our national boundaries or from without. It reminds us that the super-jingoistic patriotism, which in the past has often been narrowly conceived as loyalty or obligation to one's own nation, right or wrong, must now be imbued with a broader outlook that honors the world's diversity of peoples but also seeks a new and larger cohesion based upon the concepts of common human rights.

So I come, finally, to a value for American civic education that I believe requires a basic change in our historical views and values of citizenship. The idea of national citizenship must now take account of the vast changes in the world situation that have burst on our consciousness since the end of World War II. Increasingly popular terms to define the set of phenomena that began with Wendell Wilke's "One World" in the 1940s are now "global interdependence," "global perspectives," or simply "global education."[107]

I recognize that the term "global education" has been attacked by political and religious conservatives on the ground that it seeks to denigrate true American values, or that it sees no superior values in the American way of life and thus preaches a kind of "moral relativism" or "moral neutrality."[108] I hope that no one could read and understand the first eleven of my tables of civism and still think that I see no superior values in the ideals of American citizenship. But in preference to global education I advocate the term "international human rights" or simply "human rights" as a device to broaden civic education for Americans and yet not get overwhelmed by trying to cover all aspects of study of all the world's peoples and cultures.

In fact, I come very close to the definition of global education set forth in the report by the Study Commission on Global Perspectives in Education chaired by Clark Kerr, which outlines what students need to know to function as citizens of the United States in an increasingly interdependent

world.[109] In this effort, the United States should not try blatantly to export our "cultural" or "political imperialism" to peoples who have chosen a different way. But if the world is truly interdependent and U.S. citizenship is genuinely devoted to democratic values, then global study should be searching for and preferring democratic answers to global issues as well as simply understanding the reasons for diverse views.

The idea and practice of citizenship itself as conceived in various nations could be a major theme for this study. What does citizenship mean for Christians and Moslems in Lebanon, for blacks in South Africa, for Jews and dissidents in the Soviet Union, for ethnic and language groups in India, Sri Lanka, China, or Nigeria, and for new immigrants to the United States? A greater attention to human rights would give opportunities to address the positive aspects of democratic values and the obstacles or threats to such rights in various national approaches to citizenship. There is not only the danger of trying to do too much in too scattered and superficial a fashion, but there is also the danger of competition in the school curriculum between civic education, global education, and multicultural education. These three efforts to redirect the school curriculum are often carried out independently of one another. There has been too little effort to interweave the three and too little recognition of their natural affinity. Indeed, they are often disparate, and even sometimes antagonistic, in their impacts or pressures upon the schools.

Global education includes a variety of efforts to internationalize the perspectives of American citizens in light of the realities of global interdependence of nation states and the need for a peaceful and secure world community. Multicultural education arose from the pluralist effort to enhance the distinctive cultural traditions of the different ethnic and racial groups that comprise American society. And the revival of citizenship education in the effort to generate greater social and civic cohesion and commitment to the historic democratic political values basic to a common American citizenship has often neglected the other two and been neglected by them. Clearly, these three movements all directly address the national interest; they all three should aim to improve our capacities for living humanely and justly with one another; they all three aim to improve our understanding of intercultural and international conflict and our ability to resolve it.[110]

Civic education for interdependence means that basic civic literacy for American citizenship must include a reasoned awareness and understanding of the varying ways of life in other cultures, the emerging world economic and political system, the role of international organizations in international cooperation, and the intimate ways in which global problems impinge upon American communities, large and small. Basic questions of foreign policy and America's role in the world constitute a major share of

the judgments that American political leaders must make and of the judgments that American citizens must in turn make of their political leaders and their policies. For that reason, the effectiveness of American foreign policy can be no better than the political sophistication of the decisions Americans make about their leaders. And the quality of political decisions made by leaders and citizenry alike may well be more important than a single-minded stress on making America competitive in a world-wide economic marketplace.

The historic pluralism of American society is a striking example not only of the international comings and goings of millions of people across the continents and across the seas but of the successes of the United States in building a genuinely cohesive as well as pluralist democratic society despite persistent racism, nativism, segregation, discrimination, and inequality.[111] While a threefold stress on civic community in the United States, on cultural pluralism, and on the need for world community are important, I believe that we should pay particular attention to building a healthy democratic American polity, serving well the values of cultural pluralism at home and global interdependence abroad.

My principal argument, then, is that these three major drives in American education are rightly interdependent; that keeping these movements separate is essentially artificial and constitutes a distortion of the logic that binds them together; that reasoned awareness of and respect for disparate cultures is increasingly necessary in a world of international conflict; that international security for the United States is inseparably tied to the maintenance of an intelligent, informed citizenry; and that an intelligent citizenry is necessary to the maintenance of a society free of intolerance, racism, sexism, and ethnocentric behavior.

I believe that we should try to select from the almost infinite masses of information those elements of world studies that focus on international human rights and illuminate the other eleven concepts in my table of civic values. Study of international human rights should be linked to questions of justice, freedom, equality, diversity, authority, privacy, due process, truth-telling, property rights, and participation, illustrating how these values are honored or violated in various nations and in the relations among nations.

Examples of the interplay between cohesive civic values and diversifying pluralist values are especially pertinent in the realm of human rights. They can come from the worst examples of genocide culminating in the Holocaust of Hitler's Germany, or the devastation resulting from arbitrary rule in Amin's Uganda, or outbreaks of terrorism all over the world. They can come from positive gains for human rights in Poland, Argentina, and elsewhere. They can come from study of dissidents seeking and being

denied freedom and due process in Iran, China, Cuba, or the Soviet Union, or in military dictatorships in the Philippines or Haiti or Chile.

And closer to home, they can be illustrated by the problems for human rights arising from the influx of Cubans to Florida and Mexicans, Vietnamese, and Koreans to California. Historic problems of immigration, nativism, segregation, and integration are all revived in contemporary confrontations over international as well as domestic human rights. In accordance with a law passed by the California Assembly in 1985 the State Department of Education drew up and the State Board of Education adopted in September 1987 a model curriculum on Human Rights and Genocide to be incorporated in existing courses in history/social science for grades 7-12 inclusive. And, I would urge that a complementary study of some of the basic documents that set forth contemporary statements of international human rights should be undertaken for the sake of comparison and contrast.[112]

The twofold aim of such study is to consider how to improve the American political system as well as to consider how the United States could play a more constructive and humanitarian role in the world. Of particular interest and importance would be a study of the Helsinki Final Act of 1975 in which the Soviet Union and its East European Allies agreed with the North Atlantic Treaty Nations to promote human rights. A comparison of the Final Act with the earlier UN formal documents and with later practices as revealed and discussed at general meetings in succeeding years at Belgrade, Madrid, and Vienna and at a special meeting in Ottawa in 1985 would reveal how far short the Communist nations have fallen from the agreement. Yet, the release of Anatoly Shcharansky, Yuri Orlov, and Andrei Sakharov under Mikhail Gorbachev might also reveal that steadfast promotion of the ideals of human rights was having an effect.

If, in addition, the study of international human rights could follow something like the "Journey Among Tyrants" reported by A.M. Rosenthal, formerly executive editor of *The New York Times*, the road to civic learning might lead to "standing up for political freedom" against the tyrannies of both left and right, both at home and abroad.[113] Study of the fate of the twelve tables of civism could enhance understanding of South Korea, Haiti, Indonesia, Chile, and South Africa as well as of the Soviet Bloc, Afghanistan, Nicaragua, or Cuba.

A concerted revival of this kind of civic learning at all levels of the educational system could most appropriately take place during the decades that begin with the two-hundredth anniversary of the framing and adoption of the Constitution and of America's own blueprint for a Bill of Human Rights.

One of the most extensive and detailed programs that I know about is the two-year course on global studies required in grades 9 and 10 in New York State. The rationale is stated as follows:

> The syllabus for grades 9-10 provides students with the opportunity to study other nations and their cultures within a framework that is designed to develop a global perspective. This approach aims to cultivate in students knowledge, skills, and attitudes needed to function effectively in a world characterized by ethnic diversity, cultural pluralism, international and domestic violence, and increasing interdependence.
>
> The two-year program is predicated on the assumption that competency for citizenship in the next century has two elements. The first is that the role of Western Europe in shaping our own values and institutions must not be neglected. For example, the Judeo-Christian values of justice, the Greek and Roman contributions to the idea of citizenship, the Enlightenment attitude of inquiry, and the English definition of civil liberties and the sharing of fundamental powers should be fully explored.
>
> The second is that citizenship education must now transcend its customary limitations to the institutions and societal patterns that characterize Western Civilization . . . .
>
> These citizenship competencies require the acquisition of a baseline of knowledge of the major heritages of humankind and of the historical forces that have shaped them. In this regard, no one culture can serve as a surrogate of another.[114]

The two-year course deals with seven major regions of the world and their interrelationships: Africa, South and Southeast Asia, East Asia, Latin America, the Middle East, Western Europe, and the Soviet Union and Eastern Europe. Five themes are suggested to run through the study of each region: the physical/historical setting; the dynamics of change; the process of nation-building; economic development; and the region within the global context. This regional or area-studies approach contrasts sharply with the chronological world history approach characterizing the California framework. Whichever is chosen, I believe the citizenship theme offers a coherent thread of understanding for students faced with vast amounts of sheer information.

As the United States embarks upon its third century, the role of education is fortunately regarded as a high priority in our national life. There are clamorous demands that education must sharpen the competitive edge of the United States in the world economy. Others argue that the schools should return to the safe harbors of traditional moral and religious values

as embodied in the Judeo-Christian heritage and Western civilization. Still others call for piloting the schools through the uncharted shoals of moral choice by means of cultural literacy, intellectual excellence, or critical thinking. These views have their many persuasive advocates, but I believe there is a still more cogent priority.

This book argues for revitalizing the historic civic mission of American education. This means explicit and continuing study of the basic concepts and values underlying our democratic political community and constitutional order. The common core of the curriculum throughout school and college years should be the morality of citizenship. For this goal to be realized, scholarly study of civic morality should be the first priority in the liberal and professional education of the teaching profession. In the long run, the intellectual, moral, and political agenda for American education, its curriculum, its common life, and its governance must rest upon the study and practice of the obligations as well as the rights of democratic citizenship.

Postscript

As this book was finally going to press in the waning weeks of the 1987 Bicentennial year and in the opening weeks of the 1988 election year, the issues treated here were, if anything, flaring up with increased intensity. Clearly, they would not soon or easily disappear. There is no way that a published book can keep up with fast-breaking events that bear on the fundamental role of schools in preparing youth for citizenship.

Within the scope of a single week in January the Supreme Court sent mixed messages to school officials, teachers, students, and parents regarding their respective rights and authority under the Constitution. In one case, the Court (5-3) said that school authorities could limit the expression of student ideas in newspapers published in journalism courses conducted by the school, because a student newspaper is not "a forum for public expression," and thus the First Amendment rights of students "are not automatically coextensive with the rights of adults in other settings." Writing for the majority, Justice Byron R. White stated that this case was different from *Tinker*, where a school simply tolerated non-disruptive student speech; whereas in *Hazelwood* the school properly exerts

> educators' authority over school-sponsored publications, theatrical productions, and other expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school. These activities may fairly be characterized as part of the school curriculum . . . . A school must also retain the authority to refuse to sponsor student speech that might reasonably be perceived to . . . associate the school with any position other than neutrality on matters of political controversy (*Hazelwood School District v. Kuhlmeier*, 86-836).

In his fiery dissent Justice Brennan claimed the majority was teaching the wrong "civics lesson" on the meaning of the First Amendment in education for citizenship. He argued that the majority had mistakenly distinguished *Hazelwood* from *Tinker* and that the student newspaper was indeed

> . . . a forum established to give students an opportunity to express their views while gaining an appreciation of their rights and responsibilities under the First Amendment to the United States Constitution . . . .
>
> *Tinker* teaches us that the state educator's undeniable, and undeniably vital, mandate to inculcate moral and political values is not a general warrant to act as "thought police" stifling discussion of all but state-approved topics and advocacy of all but the official

> position. Otherwise educators could . . . cast a perverse and impermissible "pall of orthodoxy over the classroom . . . "
>
> Instead of "teach[ing] children to respect the diversity that is fundamental to the American system" and "that our Constitution is a living reality, not parchment preserved under glass," the Court today "teach[es] youth to discount important principles of our government as mere platitudes." The young men and women of Hazelwood East expected a civics lesson, but not the one the Court teaches them today.

The following week Justice Brennan wrote for the majority (6-2) that school officials did *not* have the authority to expel handicapped children without due process, even if they were disruptive of the school environment (*Honig v. Doe*, 86-728). Both decisions aroused applause from some commentators in the press and TV, and consternation among others. This interplay among the civic values of freedom, justice, equality, authority, privacy, and due process revealed continuing deep cleavages in public and professional opinion as well as in the courts. And the prospect was that still more volatile issues might be working their way up the courts in litigation seeking to prohibit federal funds from going to parochial schools for the education of disadvantaged children or removing tax exemption for church agencies that sought to exert political or educational influence regarding abortion rights of teenagers.

Still other aspects of constitutional rights in education were focussing front page attention on matters of equality, discrimination, segregation, and affirmative action. The Congress was passing the Civil Rights Restoration Act specifically designed to overcome the Supreme Court's decision in *Grove City College v. Bell* regarding the use of federal funds by colleges that practice gender discrimination. And federal judges in Boston, Austin, Oklahoma City, and scores of other communities were deciding whether school integration practices under the orders of the courts had gone far enought to justify lifting their surveilliance initiated by the *Brown* decision of 1954 and numerous subsequent decisions of lower and higher courts.

Meanwhile, as the election year warmed up, all the presidential candidates promised their loyalty to improving education, as did candidates for Congress, governorships, and state legislatures. But, only a few were talking about the role of the schools in education for citizenship. Rather strange for a profession that lives on the suffrage of citizens. "Moral and ethical values" seemed to be good vote-getters, while most candidates stayed away from "religious values" as too touchy.

Still, the expressed concern of political leaders to improve education could be a heartening development, especially if their attention could be focussed on elevating education for the "office of citizen," a role which all

youth should be prepared to fill. From such a base, perhaps the educational system could not only raise the percentage of eligible voters who actually vote (the U.S. is now lowest among 28 democratic countries), but also increase their informed judgment when they do vote; and in the long term elevate the commitment of increasing numbers of youth to devote themselves to preparation for a career in the public service, as Paul Volker and a number of university presidents have recently urged.

A new and intriguing Gallup study of the electorate was issued by Times Mirror in brief summary form in September 1987, entitled *The People, the Press & Politics*. Arguing that conventional labels of conservative, liberal, Republican, Democrat, or independent no longer reveal the diversity of the electorate's views, the study constructs a new typology. People are classified not only according to party preferences but according to several basic values and orientations, such as religious faith and belief in God, tolerance toward the beliefs of others, attitudes toward the government's obligations to insure social justice, militant anti-communism, alienation and feelings of powerlessness, and attitudes toward the proper role of government and business corporations.

Even more intriguing are the terms of the typology of voters and their estimated percentages in the adult population: Enterprise Republicans (10%); Moral Republicans (11%); Upbeats (9%); Disaffecteds (9%); Bystanders (11%); Followers (7%); Seculars (8%); '60s Democrats (8%); New Deal Democrats (11%); The Passive Poor (7%); and The Partisan Poor (9%);

Whatever the merits of the complete Times Mirror study may be upon its publication by Addison-Wesley in 1988, one or two things are clear. A low level and a low quality of education are closely related to a low level (not to judge quality) of education. The Followers, the Partisan Poor, the Passive Poor, and the Bystanders are all identified as "less well" or "poorly" educated. Together, they represent 34% of the adult population. Note particularly the Bystanders: "Young, poorly educated and marked by an almost total lack of interest in current affairs" they are "non-participants in American democracy" (p.14).

A cynic might say that it is just as well for the poorly educated *not* to be active politically; better to leave politics to the well-educated. But that would be to ignore at our peril Jefferson's warning: "If a nation expects to be ignorant and free in a state of civilization it expects what never was and never will be."

So, beyond the election year of 1988 remains the task of reformulating the guidelines for what the schools should teach in order to prepare the young for citizenship. This includes what the schools should teach by their practices, environment, and governance as well as by their curriculum,

textbooks, and ideas. Professionals and academics in education, history, jurisprudence, the social sciences, and the humanities are divided on these matters, as the foregoing chapters reveal. Little wonder that the public is also uncertain and divided.

Some of the leading contemporary cast of characters in these disputes will undoubtedly continue to play leading roles. One cannot predict with certainty which ones will star nor for how long. Chief Justice Rehnquist and Justice Scalia will certainly continue to uphold constitutional doctrines of original intention on the Supreme Court, and Judge Bork has resigned his position as an appellate judge in order to continue speaking out in the public forums. Justices Brennan and Marshall will continue their leading liberal roles as long as they remain on the Court in the hope that understudies are ready to carry on their views.

Whether William J. Bennett will continue beyond the election of 1988 as Secretary of Education is not settled, but his speaking and writing will very likely continue to play a part in the professional and public debates regarding the place of history, geography and civics in the social studies as set forth in his *James Madison High School.* Bennett's clear, forceful, and often contentious views have made the content of education a topic of public and media discussion far beyond the purely professional forums. Not only do historians and social studies professionals enter the fray, but the daily columnists in local and national press continue to have their say. James J. Kilpatrick applauds school authority exerted over school newspapers; Ellen Goodman finds "a scent of authoritarianism" in the *Hazelwood* decision and in *James Madison High School.*

Undoubtedly, such volatile and sometimes inflammatory issues as described in this book will continue to be debated in the public space of the media, legislation, and litigation. But, as I stated in the Preface, the task of revitalizing the historic mission of American civic education requires the sustained attention of the scholarly community, the educational profession, and the public. It will take their combined efforts to stimulate and inform the outlooks of those who do the curriculum-making, the textbook-writing and publishing, and the teaching and administering of schools as well as of those in educational policy-making positions. The heart of the matter is a defensible conception of the morality of American citizenship, a conception that can be transformed into the substance and practices of the educational enterprise.

Chapter 1
Notes

1. *Model Curriculum Standards; Grades Nine Through Twelve, Overview and Introduction* (Sacramento: California State Department of Education, 1985), p. 1.

2. See Bernard R. Gifford, ed., *History in the Schools: What Shall We Teach?* (New York: Macmillan, 1988).

3. Hazel Whitman Hertzberg, "The Teaching of History," in Michael Kammen, ed., *The Past Before Us: Contemporary Historical Writing in the United States* (Ithaca, N.Y.: Cornell University Press, 1980), p. 474.

4. Ruth Miller Elson, *Guardians of Tradition: American Schoolbooks of the Nineteenth Century* (Lincoln: University of Nebraska Press, 1964), p. 195.

5. Ibid., p. 282.

6. Thomas Jefferson, "Notes of the State of Virginia," quoted in Gordon C. Lee, ed., *Crusade Against Ignorance; Thomas Jefferson on Education* (New York: Teachers College, Columbia University, 1961), p. 95.

7. Ibid., pp. 96-97.

8. See Elson, *Guardians of Tradition*, p. 338.

9. In addition to Hertzberg, "The Teaching of History," in Kammen, *The Past Before Us*, see her *Social Studies Reform (1880-1980)* ED 211429 (Boulder, Colo.: Social Science Education Consortium, 1981) and "Students, Methods, and Materials of Instruction" in Matthew T. Downey, ed., *History in the Schools* (Washington, D.C.: National Council for the Social Studies, 1985), pp. 25-41. Also R. Freeman Butts, "Society's Expectations for School Instruction About the Constitution: An Historical Overview," in Howard D. Mehlinger, ed., *Teaching About the Constitution in American Secondary Schools* (Washington, D.C.: Project 87, 1981).

10. Quoted by Hazel W. Hertzberg in *Social Education*, October 1987, p. 394.

11. *Report of the Committee of Ten on Secondary School Subjects* (New York: American Book Co., 1894), p. 167.

12. Ibid., p. 170.

13. Ibid., p. 165.

14. Ibid., p. 180.

15. Ibid., p. 181.

16. For an interesting analysis, see N. Ray Hiner, "Professions in Process: Changing Relations Between Historians and Educators," *History of Education Quarterly*, Spring 1972, pp. 34-56.

17. American Historical Association, *The Study of History in Schools* (New York: Macmillan, 1899), p. 17.

18. Ibid., p. 75.

19. Ibid., pp. 81-82.

20. See Micheline Fedyck, "Conceptions of Citizenship and Nationality in High School American History Textbooks, 1913-1977," Ph.D Dissertation, Teachers College, Columbia University, 1979.

21. See James Harvey Robinson, *The New History* (New York: Macmillan, 1912) and *The Humanizing of Knowledge* (New York: Doran, 1926); and Charles A. Beard, *The Discussion of Human Affairs* (New York: Macmillan, 1936).

22. See especially the following Commission reports: Charles A. Beard, *A Charter for the Social Sciences* (New York: Scribner's, 1932); Rolla M. Tryon, *The Social Sciences as School Subjects* (New York: Scribner's 1935); *Conclusions and Recommendations of the Commission* (New York: Scribner's. 1934); and Charles E. Merriam, *Civic Education in the United States* (New York: Scribner's, 1934).

23. Hertzberg, "The Teaching of History," p. 481.

24. Robert D. Barr, James L. Barth, and S. Samuel Shermis, *Defining the Social Studies* (Washington, D.C.: National Council for the Social Studies, 1977), Bulletin 51, pp. 67-68; *Organizations for the Essentials of Education*, a statement of the governing boards of twelve professional education associations including the National Council for the Social Studies, 1979; and *Social Education*, April 1979, p. 262.

25. *Essentials of the Social Studies* (Washington, D.C.: National Council for the Social Studies, 1980).

26. "Report of the NCSS Task Force on Scope and Sequence in Social Studies," *Social Education*, April 1984, pp. 251-252.

27. *History-Social Science Framework for California Public Schools; Kindergarten Through Grade Twelve* (Sacramento, Calif.: California State Department of Education, 1981), p. 3.

28. Sidney Simon, "Values Clarification vs. Indoctrination," *Social Education*, December 1971, p. 902.

29. Chester E. Finn, Jr., Diane Ravitch, and Robert T. Fancher, eds., *Against Mediocrity; The Humanities in America's High Schools* (New York: Holmes and Meier, 1984), pp. 240-241.

30. Ibid., p. 260.

31. William J. Bennett and Jeane Kirkpatrick, *History, Geography, and Citizenship; The Teacher's Role* (Washington, D.C.: Ethics and Public Policy Center, 1986), pp. 5 and 7.

32. See, e.g., Diane Ravitch, "Decline and Fall of Teaching History," *The New York Times Magazine*, November 17, 1985, p. 50 ff.; Matthew T. Downey, ed., *History in the Schools* (Washington, D.C.: National Council for the Social Studies, 1985); Paul Gagnon, "Finding Who and Where We Are: Can American History Tell Us?" *American Educator*, Spring 1985; and Diane Ravitch, "Tot Sociology; or What Happened to History in the Grade Schools," *The American Scholar*, Summer 1987.

33. *Education for Democracy: A Statement of Principles; Guidelines for Strengthening the Teaching of Democratic Values* (Washington, D.C.: American Federation of Teachers, 1987), p. 8.

34. See, e.g., William R. Fernekes, "*Education for Democracy* Does Not Advance the Debate" and Paul Gagnon's "Reply," *Social Education*, October 1987, pp. 396-405.

35. Lynne V. Cheney, *American Memory: A Report on the Humanities in the Nation's Public Schools* (Washington, D.C.: National Endowment for the Humanities, n.d.).

36. Diane Ravitch and Chester E. Finn, Jr., *What Do Our 17-Year-Olds Know? A Report on the First National Assessment of History and Literature* (New York: Harper and Row, 1987), p. 201.

37. Ibid., p. 56.

38. Ibid., p. 58.

39. Ibid., pp. 251-53.

40. See, e.g., *Education Week*, September 16, 1987.

41. "Howe Disputes Gloomy View of What 17-Year-Olds Know," *Education Week*, November 4, 1987. See also, e.g., Anne C. Lewis, "Kid Bashing Is In." *Phi Delta Kappan, November 1987, pp. 180-181.*

42. Stephen R. Graubard, "Alarmist Critics Who Cry Beowulf," *The New York Times*, October 1, 1987.

43. Ellis Katz, "Federalism in Secondary School American History and Government Textbooks" in Stephen L. Schecte, ed., *Teaching About American Federal Democracy* (Philadelphia: Temple University, 1984).

44. Favoring more attention to traditional religious values: Paul C. Vitz, "Religion and Traditional Values in Public School Textbooks: An Empirical Study" (Part of Final Report: NIE-G84-0012; Project No. 2-0012; Equity in Values Education, National Institute of Education, Washington, D.C., 1986). Favoring more attention to religious freedom and separation of church and state: Charles C. Haynes, *Religious Freedom in America* (Silver Spring, Md.: Americans United Research Foundation, 1986); and O.L. Davis, Jr. et al, *Looking at History; A Review of Major U.S. History Textbooks* (Washington, D.C.: People for the American Way, 1986).

45. O.L. Davis, *Looking At History*, pp. 14-15.

46. Ibid., p. 9.

47. Ibid., pp. 5-6.

48. Paul A. Gagnon, *Democracy's Untold Story: What World History Textbooks Neglect* (Washington, D.C.: American Federation of Teachers, 1987), p. 137.

49. Ibid., p. 40.

50. Gilbert T. Sewall, *American History Textbooks; An Assessment of Quality* (New York: Educational Excellence Network, 1987), p. 72.

51. Page Putnam Miller, ed., *Strengthening the Teaching of History in Secondary Schools; Resource Guide* (Washington, D.C.: National Coordinating Committee for the Promotion of History, 1985).

52. Kermit L. Hall, "The History Teaching Alliance," *Perspectives, American Historical Association Newsletter*, March 1985.

53. James G. Lengel and Gerald A. Danzer, *Law in American History* (Glenview, Ill.: Scott, Foresman, 1983); and Alan L. Lockwood and David E. Harris, *Reasoning With Democratic Values; Ethical Problems in United States History*, 2 vols, (New York: Teachers College Press, 1985).

54. Gordon Wright, "History as Moral Science," *American Historical Review*, February 1976, pp. 9-11.

55. William H. McNeill, "History for Citizens," *AHA Newsletter*, March 1976, pp. 4-6.

56. Paul L. Murphy, "The Obligations of American Citizenship: A Historical Perspective," *The Journal of Teacher Education*, November/December 1983, p. 10.

57. Thomas Bender, "Making History Whole Again," *The New York Times Book Review*, October 6, 1985, p. 1.

58. Ibid., p. 42.

59. Ibid., p. 43.

60. Thomas Bender, "Wholes and Parts: The Need for Synthesis in American History," *Journal of American History*, June 1986, p. 125.

61. Ibid., p. 132.

62. Frances FitzGerald, *America Revised* (Boston: Little, Brown, 1979); Henry Perkinson, review of "Historical Inquiry in Education," in *Educational Studies*, Winter, 1983, pp. 321-326; and *History of Citizen Education Colloquium* (Philadelphia, Pa.: Research for Better Schools, Inc., Winter 1978).

63. See, e.g., Michael W. Apple, *Education and Power* (Boston: Routledge and Kegan Paul, 1982); Stanley Aronowitz and Henry Giroux, *Education Under Siege* (South Hadley, Mass.: Bergin and Garvey, 1985); and George H. Wood, "Action for Democratic Action," *Issues in Education*, Winter 1986, pp.287-300.

64. *California Framework for History-Social Science*, 1981, pp. 7-8.

65. *History-Social Science Framework for California Public Schools, Kindergarten Through Grade Twelve* (Sacramento: California State Department of Education, 1988), p. 10. Draft adopted by State Board of Education, July 10, 1987. Diane Ravitch of Teachers College and Charlotte Crabtree of UCLA were the principal writers of the final document; Matthew Downey of UC-Berkeley compiled the first draft.

66. Ibid., p. 20.

67. Charles Frankel, "The Academy Enshrouded," *Change*, December 1977, p. 64.

68. Arthur S. Link, "The American Historical Association 1884-1984: Retrospect and Prospect," *American Historical Review*, February 1985, p. 12.

69. For final membership of the Commission and its activities, address Fay D. Metcalf, executive director, National Commission on Social Studies, 3501 Newark Street, N.W., Washington, D.C. 20016.

70. Announcement in *Education Week*, October 7, 1987; and *The New York Times*, March 23, 1988.

71. Announcement in *Education Week*, October 21, 1987.

72. *Wort v. Vierling*, 778 F2nd 1233.

73. Carl Degler, "In Pursuit of an American History," *American Historical Review*, February 1987, p. 12.

74. Ibid., p. 2.

75. See, e.g., *Social Studies 11: United States History and Government; Tentative Syllabus* (Albany, N.Y.: New York State Education Department, 1987), p.1.

Chapter 2
Notes

1. Commission on the Bicentennial of the United States Constitution, *First Report* (Washington, D.C.: The Commission, September 17, 1985), pp. 5-9.

2. Commission on the Bicentennial of the United States Constitution, *Preparation for a Commemoration; First Full Year's Report* (Washington, D.C.: The Commission, September 1986), p. ii.

3. Howard Mehlinger, ed., *Teaching About the Constitution in American Secondary Schools* (Washington, D.C.: Project '87, 1981); and John J. Patrick and Richard C. Remy, *Lessons on the Constitution* (Boulder, Colo.: Social Science Education Consortium, 1985).

4. For periodic listings of references, both books and articles, see the consecutive issues of the quarterly journal of Project '87, *this Constitution*, especially the Bicentennial Gazette in the Winter 1985 issue, pp. 38-40; the Fall 1987 issue, pp. 37-41; and the Winter 1987 issue, pp. 48-54.

See also *Selected Bibliographies on the Constitution for High School Students, College Undergraduates, and General Adult Audiences*, issued in 1986 by the Commission on the Bicentennial of the U.S. Constitution, 736 Jackson Place, N.W., Washington, D.C. 20503.

The monthly journal of the National Council for the Social Studies, *Social Education*, is an especially useful source for curriculum materials related to the Constitution; see especially the special section in the issue of September 1987, featuring articles by John J. Patrick, Richard C. Remy, and Mary Jane Turner's "Resources for Teaching about the Constitution," pp. 350-355. In addition, the Council issued a separate bulletin in 1987 entitled "Teaching about the Constitution," edited by Claire Keller and Denny Shillings.

Most of the above sources are directed at schools and colleges, as are the publications of the Constitutional Rights Foundation, Social Studies Development Center, the Social Science Education Consortium, and the Special Committee on Youth Education for Citizenship of the American Bar Association. The ABA's Public Education Division is especially active in addressing the general public on constitutional issues; see, e.g. Robert S. Peck, *We the People; the Constitution in American Life* (New York: Harry N. Abrams in cooperation with KQEd and the A.B.A., 1987).

5. The specially prepared text for use in the National Competition is Charles Quigley and others, *We the People... do ordain and establish this Constitution for the United States of America; a Secondary Level Student Text* (Calabasas, Calif.: Center for Civic Education, 1987).

6. See, e.g., R. Freeman Butts, "Public Education and Political Community," *History of Education Quarterly*, Summer 1974, pp. 165-183; "Foundations of Education and the New Civism," *Educational Studies*, Fall/Winter 1975, pp. 131-145; and *The Revival of Civic Learning* (Bloomington, Ind.: Phi Delta Kappa Educational Foundation, 1980).

7. See Frederick Rudolph, ed., *Essays on Education in the Early Republic* (Cambridge, Mass.: Harvard University Press, 1965), pp. 211 and 332.

8. H. Arnold Bennett, *The Constitution in School and College* (New York: Putnam's, 1935) pp. 46-49; and Rolla Tryon, *The Social Sciences as School Subjects* (New York: Scribner's, 1935), pp. 252-253.

9. See David B. Tyack, ed., *Turning Points in American Educational History* (Waltham, Mass.: Blaisdell, 1967), pp. 189-190.

10. Gordon C. Lee, ed., *Crusade Against Ignorance: Thomas Jefferson on Education* (New York: Teachers College, Columbia University, 1961), pp. 53-54.

11. Lawrence A. Cremin, ed., *The Republic and the School: Horace Mann on the Education of Free Men* (New York: Teachers College, Columbia University, 1957), p. 93.

12. Ibid., p. 95.

13. Ibid, p. 97.

14. Hazel Whitman Hertzberg, "The Teaching of History" in Michael Kammen, ed., *The Past Before Us: Contemporary Historical Writing in the United States* (Ithaca, N.Y.: Cornell University Press, 1980), pp. 478-498.

15. Tryon, *Social Sciences as School Subjects*, pp. 39-40.

16. Ibid., p. 42.

17. American Political Science Association, *The Teaching of Government* (New York: Macmillan, 1916), pp. 27-28.

18. Quoted in Daniel Calhoun, ed., *The Education of Americans: A Documentary History* (Boston: Houghton, Mifflin, 1969), p. 495.

19. National Education Association, Commission on the Reorganization of Secondary Education, *Cardinal Principles of Secondary Education* (Washington, D.C.: Government Printing Office, 1918), p. 14.

20. See Bernard Bailyn, et al., *The Great Republic: A History of the American People* (Boston: Little, Brown, 1977), p. 1058. See also Paul L. Murphy, *World War I and the Origin of Civil Liberties in the United States* (New York: Norton, 1979) and *The Meaning of Freedom of Speech; First Amendment Freedoms from Wilson to FDR* (Westport, Conn.: Greenwood Press, 1972).

21. For example, see Samuel P. Weaver, "The Constitution in Our Public Schools," *The Constitutional Review*, Vol. XI, April 1927, pp. 105-112; and "Teaching the Constitution," *American Bar Association Journal*, Vol. 15, 1929, pp. 580-642.

22. Archibald Cox, *The Role of the Supreme Court in American Government* (New York: Oxford University Press, 1976), p. 33; and Michael Kammen, *The Machine That Would Go of Itself; The Constitution in American Culture* (New York: Knopf, 1986).

23. Quoted in Minna Post Peyser, *Seminar on School Curricula for Instruction in the Bill of Rights* (Boulder, Colo.: University of Colorado, 1963), p. 16. See also *The Bill of Rights; A Source Book for Teachers* (Sacramento, Calif.: California State Department of Education, 1967); Isidore Starr, "Teaching the Bill of Rights," *Social Education*, Vol. 23, Dec. 1959, pp. 373-378; William J. Brennan, Jr., "Teaching the Bill of Rights," *Social Education*, Vol. 27, May, 1963, pp. 238-43; Robert M. O'Neil, "An Approach to Teaching the Bill of Rights," *Teachers College Record*, vol. 65, December 1963, pp. 272-279; Howard E. Wilson, et. al., *Teaching the Civil Liberties*, Bulletin #16 (Washington, D.C.: National Council for the Social Studies, 1941); and *A Program for Improving Bill of Rights Teaching in High Schools: The Report of the Williamstown Workshop* (New York: Civil Liberties Educational Foundation, 1962).

24. Earl Warren, "The Law and the Future," *Fortune Magazine*, November 1955.

25. *Everson v. Board of Education*, 330 U.S. 1 (1947).

26. *McCollum v. Board of Education*, 333 U.S. 203 (1948).

27. See, e.g., Stephen Arons, *Compelling Belief: The Culture of American Schooling* (New York: McGraw-Hill, 1983).

28. See, e.g., the Commentary section of *Education Week*, Nov. 9, 1983, "State Regulation of Private Schools: Three Views." The authors

were William Bentley Ball, constitutional lawyer involved in many lawsuits on this issue; Donald A. Erickson, professor of education at the University of California at Los Angeles, and myself. Recent books include James C. Carper and Thomas C. Hunt, eds., *Religious Schooling in America* (Birmingham, Ala.: Religious Education Press, 1984); James E. Wood, ed., *Religion and the State: Essays in Honor of Leo Pfeffer* (Waco, Texas: Baylor University Press, 1985); articles on religion and politics in PS, the quarterly newsletter of the American Political Science Association, Fall 1986; and special issue on Religion in the Public Schools, *Educational Leadership*, May 1987.

29. *Everson v. Board of Education*, 330 US 1, 1947 at p. 13. Justice Hugo L. Black was joined by Chief Justice Fred M. Vinson and Justices William O. Douglas, Frank Murphy, and Stanley E. Reed.

30. Ibid., at p. 6 in Wiley B. Rutledge's dissent. He was joined by Justices Felix Frankfurter, Robert H. Jackson, and Harold H. Burton.

31. James M. O'Neill, *Religion and Education Under the Constitution* (New York: Harper, 1949). O'Neill was chairman of the Department of Speech at Queens College, New York. See also Wilfrid Parsons, S.J., *The First Freedom: Considerations on Church and State in the United States* (New York: Declan X. McMullen, 1948).

32. R. Freeman Butts, *The American Tradition in Religion and Education* (Boston: Beacon Press, 1950). I was professor of education at Teachers College, Columbia University, teaching courses in the history of education. See O'Neill's critical review of my book in *America*, Sept. 9, 1950, pp. 579-583. See Leo Pfeffer, *Church, State, and Freedom* (Boston: Beacon Press, 1953) for views similar to mine.

33. *Lemon v. Kurtzman*, 403 US 602 (1971). The Court struck down a Pennsylvania law that would use public funds to pay part of the salaries of private school teachers of non-religious subjects.

34. For details supporting this view, see not only my book cited in Note #32, but also R. Freeman Butts, "James Madison, the Bill of Rights, and Education," *Teachers College Record*, Vo. 60, No. 3, December 1958, pp. 123-128. For recent massive documentation see Leonard W. Levy, *The Establishment Clause; Religion and the First Amendment* (New York: Macmillan, 1986).

35. Chester James Antieau, Arthur T. Downey, and Edward C. Roberts, *Freedom from Federal Establishment: Formation and Early History of the First Amendment's Religious Clauses* (Milwaukee: Bruce Publishng Co., 1964); Walter Berns, *The First Amendment and the Future of American Democracy* (New York: Basic Books, 1976); Michael J. Malbin, *Religion*

and Politics: The Intentions of the Authors of the First Amendment (Washington, D.C.: American Enterprise Institute, 1978); Robert L. Cord, *Separation of Church and State: Historical Fact and Current Fiction* (New York: Lambeth Press, 1982) with a Foreword by William F. Buckley, Jr.; Jerry Combee, *Democracy at Risk: The Rising Tide of Political Illiteracy and Ignorance of the Constitution* (Cumberland, Va.: Center for Judicial Studies, 1984); A. James Reichley, *Religion in American Public Life* (Washington, D.C.: Brookings Institution, 1986); Walter Berns, *Taking the Constitution Seriously* (New York: Simon and Schuster, 1987); and special issue of *Public Interest*, Winter 1987.

36. *Jaffree v. Board of School Commissioners of Mobile County*, et al., 554 F. Supp. 1104 (1983).

37. *Wallace v. Jaffree*, 105 S.Ct. 2479 (1985).

38. Ibid., Justice William H. Rehnquist, dissenting at p. 17; Justice Byron R. White, dissenting at p. 2.

39. *Smith v. Board of School Commissioners of Mobile County*, U.S. District Court for the Southern District of Alabama, Southern Division, Civil Action No. 82-0544-BH, March 4, 1987.

40. *Jaffree v. Mobile*, 554 F. Supp. 1104, 1129 and footnote 41, Appendix A.

41. *The New York Times*, Oct. 4, 1985.

42. *Aguilar v. Felton*, 105 S.Ct. 3232 (1985).

43. This and following quotations from the speech by Attorney General Edwin Meese III, at the American Bar Association (July 9, 1985) are contained in the text issued by the U.S. Department of Justice, pp. 13-17.

44. *Wall Street Journal*, July 22, 1982.

45. *The New York Times*, September 29, 1985.

46. Ibid., October 14, 1985.

47. Ibid., October 17, 1985.

48. Ibid., July 3, 1985.

49. Speech by Secretary William J. Bennett to Knights of Columbus (August 7, 1985). Text reprinted in *Education Week* (August 21, 1985), p. 11.

50. Ibid.

51. Speech by Justice William J. Brennan, Georgetown University (October 12, 1985). Text issued by the U.S. Supreme Court, pp. 4-5. Major excerpts are contained in *Kettering Review*, Fall 1987, pp. 6-11.

52. Ibid., p. 7

53. Ibid., p. 13.

54. *The New York Times*, October 26, 1985.

55. Ibid., September 13, 1986.

56. Ibid., October 23, 1986.

57. *Cooper v. Aaron*, 358 U.S. 1 (1958).

58. Remarks of Thurgood Marshall at the Annual Seminar of the San Francisco Patent and Trademark Law Association in Maui, Hawaii, May 6, 1987 (Washington, D.C.: Supreme Court of the United States).

59. Lyman Bryson, *An Outline of Man's Knowledge of the Modern World* (New York: McGraw-Hill, 1960), p. 3.

60. F. N. Thorpe, ed., *The Federal and State Constitutions, Colonial Charters and Other Organic Laws* (Washington, D.C.: Government Printing Office, 1909), p. 1689.

61. Ibid., pp. 1889-90.

62. Ibid, pp. 3255-56.

63. See Joseph Gales, ed., *Annals of Congress* (Washington, D.C.: Gales and Seaton, 1834), Vol. I; and for useful summaries, see R. Freeman Butts, *The American Tradition in Religion and Education* (Boston: Beacon Press, 1950; reprinted by Greenwood Press, 1974); and *Religion, Education, and the First Amendment* (Washington, D.C.: People for the American Way, 1985).

64. This discussion of Madison is adapted from R. Freeman Butts, "James Madison, the Bill of Rights, and Education" in *Teachers College Record*, Vol. 60, No. 3, December 1958, pp. 123-128.

65. *The New York Times*, July 29, 1987

66. Joseph Gales, ed., *Annals of Congress*, Vol. I, p. 451.

67. Ibid., p. 452.

68. Ibid., p. 458.

69. Ibid., p. 456.

70. Ibid., p. 454-55

71. Ibid., p. 457.

72. This history is detailed in R. Freeman Butts, *The American Tradition in Religion and Education*, Chapter 5.

73. See, for example, Anson Phelps Stokes and Leo Pfeffer, *Church and State in the United States* (New York: Harper and Row, 1950 and 1964); Leo Pfeffer, *Church, State, and Freedom* (Boston: Beacon Press, 1953 and 1967); C. Herman Pritchett, *The American Constitution*, 3rd ed. (New York: McGraw-Hill, 1977); Robert S. Alley, ed., *James Madison on Religious Liberty* (Buffalo, N.Y.: Prometheus Books, 1985); Leonard Levy, *The Establishment Clause: Religion and the First Amendment* (New of York: Macmillan, 1986); Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford, 1986). For generally excellent encyclopedia articles, see Leonard Levy, Kenneth Karst, and Dennis Mahoney, eds., *The Encyclopedia of the American Constitution*, 4 vols. (New York: Macmillan, 1986); Philip Kurland and Ralph Lerner, eds., *The Founders' Constitution*, 5 vols. (Chicago: University of Chicago Press, 1987); and references cited in the Notes for Chapters 3 and 4.

74. *this Constitution*, September 1983, p. 28.

75. Ibid., Winter 1984, pp. 22-23.

76. Ibid., Fall 1985, pp. 12-13.

77. Ibid., Fall 1986, p. 33.

78. Leonard W. Levy, "The Original Meaning of the Establishment Clause of the First Amendment" in James E. Wood, Jr., ed., *Religion and the State; Essays in Honor of Leo Pfeffer* (Waco, Texas: Baylor University Press, 1985), p. 44.

79. Leonard W. Levy, *The Establishment Clause: Religion and the First Amendment* (New York: Macmillan, 1986), p. xvi.

80. Ibid., p. 26.

81. *Mozert v. Hawkins County Public Schools*, U.S. District Court of the Eastern District of Tennessee, Northeastern Division, No. CIV-2-83-401, 1986.

82. *Smith v. Board of School Commissioners of Mobile County*, U.S. District Court for the Southern District of Alabama, Southern Division, No. CIV 82-0544-BH, March 4, 1987.

83. Ibid, U.S. Court of Appeals, Eleventh Circuit, No. 87-7216, August 26, 1987. However, it was reported in early December 1987 that the parents had decided not to appeal to the Supreme Court (*Education Week*, December 9, 1987).

84. *Edwards v. Aguilard*, No. 85-1513 (1987).

85. *The Washington Post National Weekly Edition*, October 13, 1986. See also William Lee Miller, *The First Liberty: Religion and the American Republic* (New York: Knopf, 1986).

86. *Karcher v. May*, 87 *Daily Journal D.A.R.* 9290. On December 1, 1987 the Supreme Court declined to reverse the lower courts, on the procedural grounds that the appellants, who had been in the New Jersey legislature when the law was passed, had no legal standing because they were no longer in the legislature. A similar ruling of "no standing" had been made by the Court in March 1986 regarding voluntary student prayer meetings on school grounds; *Bender v. Williamsport (Pa.) Area School District*, 106 SCt 1326 (1986).

87. David G. Savage, "Watching a Changing Court: Will the Center Hold?" *Phi Delta Kappan*, October 1987, pp. 135-137. For example, the Supreme Court agreed on November 9, 1987 to decide whether a law passed by Congress, the Adolescent Family Life Act of 1981, is unconstitutional because it grants federal funds to religious organizations to enable them to promote their religious teachings regarding premarital sex, birth control, and abortion. If the Supreme Court upholds the district judge, it will be the first time a Congressional Act has been declared unconstitutional under the establishment clause, *Bowen v. Kendrick*, No. 87-250.

88. See, e.g., James H. Kettner, *The Development of American Citizenship, 1608-1870* (Chapel Hill, N.C.: University of North Carolina Press, 1978); Robert T. Miller and Ronald B. Flowers, eds., *Toward Benevolent Neutrality; Church, State, and the Supreme Court* (Waco, Texas: Baylor University Press, 1982); and Rogers M. Smith, *Citizenship Without Consent* (New Haven, Conn.: Yale University Press, 1985).

89. Philip B. Kurland and Ralph Lerner, eds., *The Founders' Constitution*, 5 vols. (Chicago: University of Chicago Press, 1987). In Volume 5, see especially pp. 1-43 for 13 documents regarding the Bill of Rights in general and pp. 43-111 for 69 documents pertinent to the religious clauses of the First Amendment.

90. Paul A. Freund, "What They Said, What They Read," *The New York Times Book Review*, March 15, 1987, p. 3.

91. Ibid., p. 21.

92. Robert H. Wiebe, *The Segmented Society: An Introduction to the Meaning of America* (New York: Oxford University Press, 1975), Chap. 4.

93. R. Freeman Butts, "The Dilemma of Civic Learning in the Schools of a Pluralist Democracy" in Lewis H. Lapham, ed., *High Technology and Human Freedom* (Washington, D.C.: Smithsonian Institution Press, 1985), pp. 60-61.

94. A Hearst Report, *The American Public's Knowledge of the U.S. Constitution; A National Survey of Public Awareness and Personal Opinion* (New York: Hearst Corporation, 1987); and Center for Civic Education, *Preliminary Report on High School Students' Knowledge of the History and Principles of the United States Constitution and Bill of Rights* (Calabasas, Calif.: Center for Civic Education, 1987).

95. "Justices on the Constitution: What Children Should Know," *The New York Times, Education Life Section*, August 2, 1987, p. 33.

96. Ibid.

97. California State Board of Eduation, *Board Highlights*, April 9-10, 1987 Board Meeting, Vol. 10, No. 8.

98. *Soial Studies 11: United States History and Government; Tentative Syllabus* (Albany, N.Y.: New York State Education Department, 1987), pp. 21-35.

Chapter 3
Notes

1. Task Force on Teaching as a Profession, *A Nation Prepared: Teachers for the 21st Century* (Washington, D.C.: Carnegie Forum on Education and the Economy, 1986), p. 3.

2. Dennis F. Thompson, *Political Participation* (Washington, D.C.: American Political Science Association, 1977); William E. Connolly, *The State and the Public Interest* (Washington, D.C.: American Political Science Association, 1977); and John Scharr, *Equality: Its Bearing on Justice and Liberty* (Washington, D.C.: American Political Science Association, 1978).

3. Richard Flathman, "Citizenship and Authority: A Chastened View of Citizenship," *News for Teachers of Political Science*, Summer 1981, pp. 9-19.

4. See, e.g., Hannah Arendt, *Between Past and Future*, new enl. ed. (New York: Viking Press, 1968) and *The Origins of Totalitarianism*, 2nd enl. ed. (New York: Meridian Books, 1963); Benjamin R. Barber, *Strong Democracy: Politics in the Participatory Mode* (Berkeley: University of California Press, 1984); Carole Pateman, *The Problem of Political Obligation* (Chichester, N.Y.: Wiley, 1979); Dennis F. Thompson, *The Democratic Citizen* (London: Cambridge University Press, 1970); John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971); and Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983).

5. Michael J. Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982); Ronald Beiner, *Political Judgment* (Chicago: University of Chicago Press, 1984); and A.O. Hirschman, *Essays in Trespassing* (Cambridge: Cambridge University Press, 1981) and *Shifting Involvements: Private Interest and Public Action* (Princeton, N.J.: Princeton University Press, 1982).

6. Amitai Etzioni, *An Immodest Agenda: Rebuilding America Before the Twenty-First Century* (New York: McGraw-Hill, 1983); Robert N. Bellah, *Varieties of Civil Religion* (San Francisco: Harper & Row, 1980); Robert N. Bellah and others, *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley: University of California Press, 1985); Morris Janowitz, *The Reconstruction of Patriotism: Education for Civic Consciousness* (Chicago: University of Chicago Press, 1984); and Manfred

Stanley, *The Ivory Commonwealth: A Case for Civic Higher Education* (in preparation for University of Chicago Press).

7. J. Roland Pennock, "Rights and Citizenship," *News for Teachers of Political Science*, Fall 1981, pp. 12-23.

8. See the following articles in *this Constitution, A Bicentennial Chronicle*, published by the American Historical Association and the American Political Science Association, 1527 New Hampshire Avenue, N.W., Washington, D.C. 20036:

James MacGregor Burns and Richard B. Morris, "The Constitution: Thirteen Crucial Questions," No. 1, September, 1983.

Gordon S. Wood, "Eighteenth-Century American Constitutionalism," No. 1, September, 1983.

Donald S. Lutz, "The Preamble to the Constitution of the United States," No. 1, September 1983.

Paul L. Murphy, "The Meaning of A Free Press," No. 3, September, 1984.

A.E. Dick Howard, "A Frequent Recurrence to Fundamental Principles: the Courts and Constitutional Changes," No. 3, September, 1984.

Jack N. Rakove, "James Madison and the Extended Republic: Theory and Practice in American Politics," No. 3, September, 1984.

Howard N. Meyer, "Retrieving Self-Evident Truths: the Fourteenth Amendment," No. 4, Fall, 1984.

Thomas L. Pangle, "Federalists and the Idea of Virtue," No. 5, Winter, 1984.

Jack P. Greene, "The Imperial Roots of American Federalism," No. 6, Spring, 1985.

Rogers M. Smith, "The Meaning of American Citizenship," No. 8, Fall, 1985.

Kenneth M. Holland, "The Constitution and the Welfare State," No. 11, Summer, 1986.

Robert S. Alley, "On Behalf of Religious Liberty: James Madison's *Memorial and Remonstrance*," No. 12, Fall, 1986.

9. See, for example, the pages of *Philosophy and Public Affairs, Ethics,* and *The Public Interest.*

10. Robert Nisbet, *The Social Philosophers: Community and Conflict in Western Thought* (New York: Thomas Crowell, 1973), pp. 32-33.

11. Thucydides, *History of the Peloponnesian War,* trans. by Richard Crawley (London: J. M. Dent, 1910), pp. 121-124.

12. Aristotle, *Politics and Poetics,* trans. by Benjamin Jowett and S. H. Butcher (New York: Heritage Press, 1964), pp. 80-81.

13. Ibid. p. 5.

14. Ibid. p. 251.

15. Ibid. pp. 267-268.

16. Nisbet, *Social Philosophers,* p. 36.

17. Ibid. pp. 121-123.

18. Ibid. p. 125.

19. Peter Riesenberg, "Civism and Roman Law in 14th Century Italian Society," *Explorations in Economic History,* Vol. 7, No. 1-2 (1969), pp. 237-254.

20. J.G.A. Pocock, *The Machiavellian Moment; Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, N.J.: Princeton University Press, 1975).

21. Ibid., see especially Chapters XIV and XV.

22. Robert R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760-1800,* Vol. I (Princeton, N.J.: Princeton University Press, 1959).

23. Ibid. pp. 4-5.

24. Nisbet, *Social Philosophers,* p. 399.

25. Palmer, *Age of the Democratic Revolution,* Vol. I, p. 29.

26. See, for example, Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967); Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill, N.C.: University of North Carolina Press, 1969); Stephen G. Kurtz and James H. Hutson, eds., *Essays on the American*

Revolution (Chapel Hill, N.C.: University of North Carolina Press, 1973); Ralph Ketcham, *From Colony to Country: The Revolution in American Thought, 1750-1820* (New York: Macmillan, 1974); Clinton Rossiter, *The American Quest, 1790-1860: An Emerging Nation in Search of Identity, Unity, and Modernity* (New York: Harcourt Brace Jovanovich, 1971); Robert R. Palmer, *The Age of the Democratic Revolution; A Political History of Europe and America, 1760-1800*, 2 vols. (Princeton, N.J.: Princeton University Press, 1959 and 1964); Bernard Bailyn, David Brion Davis, David Herbert Donald, John L. Thomas, Robert H. Wiebe, and Gordon S. Wood, *The Great Republic: A History of the American People* (Boston: Little Brown, 1977), esp. Part II by Gordon Wood); James McGregor Burns, *The Vineyard of Liberty* (New York: Knopf, 1982); John P. Diggins, *The Lost Soul of American Politics; Virtue, Self-Interest and the Foundations of Liberalism* (New York: Basic Books, 1984); Forrest McDonald, *Novus Ordo Seclorum; The Intellectual Origins of the Constitution* (Lawrence: University of Kansas Press, 1985); William Peters, *A More Perfect Union* (New York: Crown, 1987); and Michael Kammen, ed., *The Origins of the American Constitution: A Documentary History* (New York: Penguin, 1987).

27. Palmer, *Age of Democratic Revolution*, Vol. I, pp. 518-520.

28. For an excellent analysis, see James H. Kettner, *The Development of American Citizenship, 1608-1870* (Chapel Hill, N.C.: University of North Carolina Press, 1978). For a briefer historical analysis but explicit application to civic education, see Richard M. Battistoni, *Public Schooling and the Education of Democratic Citizens* (Jackson: University Press of Mississippi, 1985).

29. Jean Jacques Rousseau, *The Social Contract and Discourses*, trans. by G.D.H. Cole (New York: Dutton, 1950), p. 52.

30. Nisbet, *Social Philosophers*, pp. 145-158.

31. Palmer, *Age of Democratic Revolution*, Vol I, pp. 119-121.

32. Ibid., p. 127.

33. Rousseau, *Social Contract*, p. 15.

34. Francis Newton Thorpe, comp., *The Federal and State Constitutions, Colonial Charters . . .* (Washington, D.C.: Government Printing Office, 1909), vol. 3, p. 1889.

35. Wood, *The Creation of the American Republic*, p. 465.

36. Bernard Bailyn, "Central Themes of the American Revolution; An Interpretation" in Kurtz and Hutson, eds., *Essays on the American Revolution*, p. 22.

37. *The New York Times Book Review*, October 26, 1969.

38. Ralph Ketcham, ed., *The Anti-Federalist Papers and the Constitutional Convention Debates* (New York: New American Library, Mentor, 1986). This makes a handy companion to one of the many collections of *The Federalist Papers* now in print. See also a volume which contains both: J. R. Pole, ed., *The American Constitution: For and Against* (New York: Hill and Wang, 1987).

39. Joseph Gales, ed., *Annals of Congress* (Washington, D.C.: Gales and Seaton, 1834), Vol. I, p. 451.

40. Palmer, *Age of the Democratic Revolution*, pp. 228-229.

41. Robert Bellah, et. al., *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley: University of California Press, 1985), p. 211.

42. Benjamin R. Barber, "The Real Lesson of 'Amerika'," *The New York Times*, Sunday, March 1, 1987, Op Ed page.

43. *Social Studies 12: Participation in Government; Tentative Syllabus* (Albany, N.Y.: New York State Education Department, 1987), pp. 22-23.

44. Ibid., p. 28. On pages 31-46 the syllabus describes several alternative models that local districts might follow in designing their courses. These include: Office of Citizen Model drawn up by Joseph V. Julian, Ralph Ketcham, and Donald Meiklejohn of Syracuse University; National Issues Forum Model drawn up by James E. Davis and Sharryl Davis Hawke for the National Issues Forums of the Domestic Policy Association; Community Service/Internship Model sponsored by the Constitutional Rights Foundation; and Public Policy Issues materials available from the National Council for the Social Studies, Jefferson Foundation, Foreign Policy Association, Scholastic Update, Close-Up Foundation, Newsweek, and the Institute for Political and Legal Education.

Chapter 4
Notes

1. Benjamin R. Barber's review of Arthur M. Schlesinger, Jr., *The Cycles of American History* (Boston: Houghton Mifflin, 1986) in *The New York Times Book Review*, November 16, 1986.

2. R. Freeman Butts, *The Revival of Civic Learning; A Rationale for Citizenship Education in American Schools* (Bloomington, Ind.: Phi Delta Kappa Educational Foundation, 1980), p. 128.

3. *History-Social Science Framework for California Public Schools; Kindergarten Through Grade Twelve* (Sacramento, Calif.: California State Department of Education, 1981).

4. Quoted in Paul Monroe, ed., *Source Book of the History of Education for the Greek and Roman Period* (New York: Macmillan, c. 1901, 1908), p. 345. In the first half of the 20th century, prospective teachers for American schools often studied the history of ancient, medieval, and modern education. See R. Freeman Butts, *The Education of the West; A Formative Chapter in the History of Civilization* (New York: McGraw-Hill, 1973). This book, a successor to my *A Cultural History of Western Education*, 1947 and 1955, has been out of print since 1977.

5. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971); Michael J. Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982); Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983); Ronald M. Dworkin, *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985); Lawrence Friedman, *Total Justice* (New York: Basic Books, 1985); and Bruce A. Ackerman, *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

For curriculum materials, suitable for kindergarten - 12th grades, see Law in a Free Society, *Justice* (Calabasas, Calif.: Center for Civic Education, 1979); and *Update on Law-Related Education* (Chicago: American Bar Association, Spring 1987).

6. Rawls, *Theory of Justice*, p. 5.

7. Ibid., p. 302.

8. Ibid., p. 61.

9. Ibid., p. 302.

10. Ibid., p. 61.

11. See, e.g., Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); and William R. Torbert, "Doing Rawls Justice," *Harvard Educational Review*, November 1974.

12. Walzer, *Spheres of Justice*, p. *203*.

13. For my views on freedom, worked out in the crucible of the McCarthy era in the 1950s, see R. Freeman Butts, "Freedom and Responsibility in American Education," *Teachers College Record*, December 1952, pp. 117-124; and "The Free Man in the Free Society," Chap. 12 in *What Is the Nature of Man? Images of Man in Our American Culture* (Philadelphia: Christian Education Press, 1959), pp. 146-160.

14. Alexander Meiklejohn, *Political Freedom; The Constitutional Powers of the People* (New York: Harper, 1948, 1960), pp. 35-36. See Justice William J. Brennan, Jr. "The Supreme Court and the Meiklejohn Interpretation of the First Amendment," *Harvard Law Review*, November 1965.

15. Ibid., pp. 3-4.

16. See Robert O'Neil, *Classrooms in the Crossfire* (Bloomington, Ind.: University of Indiana Press, 1980). For an excellent high school text on freedom, see Isidore Starr, *The Idea of Liberty: First Amendment Freedoms* (St. Paul, Minn.: West Publishing Co., 1978). See also several issues of the quarterly published by the American Bar Association, *Update on Law-Related Education*, especially the issues on Freedom, Free Press, and First Amendment, Spring 1985; Fall 1985, and Winter 1986; and special section on "Academic Freedom, Censorship, and the Social Studies," *Social Education*, October 1987, pp. 424-449.

17. See Leonard W. Levy, Kenneth L. Karst, and Dennis J. Mahoney, eds., *Encyclopedia of the American Constitution* (New York: Macmillan, 1986), articles entitled: Academic Freedom; *Adler v. Board of Education*; Bill of Rights; Civil Liberties; Establishment of Religion; Family and the Constitution; First Amendment; Freedom of Association; Freedom of Petition; Freedom of the Press; Freedom of Speech; Loyalty Oaths; Public Forum; Religion in Public Schools; Religious Liberty; Separation of Church and State; Virginia Statute of Religious Liberty.

18. *Wieman v. Updegraff*, 344 U.S. 183 (1952).

19. *Adler v. Board of Education*, 342 U.S. 485 (1952).

20. *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

21. *Tinker v. Des Moines*, 393 U.S. 503 (1969). The ruling of the Supreme Court (5-4) in *Bethel School District v. Fraser* 54 USLW 5054 in July 1986 may have weakened *Tinker* by asserting that socially inappropriate behavior by students (lewd, indecent, or offensive speech) does not have the same protection as political speech. Still other dimensions to student rights of freedom of speech may appear when the Supreme Court decides a case involving prior restraint on articles planned for a high school newspaper dealing with teenage pregnancy and parental divorces (*Hazelwood School District v. Kuhlmeier*, No. 86-836).

22. See Levy, *Encyclopedia of the American Constitution*, articles entitled: Affirmative Action; *Brown v. Board of Education*; Children's Rights; Civil Rights; Civil Rights Act of 1964; Desegregation; Discrete and Insular Minorities; Equal Protection of the Laws; Fourteenth Amendment, Incorporation; Racial Discrimination; Racial Quotas; Segregation; Separate But Equal Doctrine; Sex Discrimination. See also American Bar Association's *Update on Law-Related Education*, Spring 1987; Spring 1981; and Fall 1981.

23. Edmund Morgan, "Conflict and Consensus in the American Revolution" in Stephen G. Kurtz and James H. Hutson, eds., *Essays on the American Revolution* (Chapel Hill, N.C.: University of North Carolina Press, 1973), p. 308.

24. *Brown v. Board of Education*, 347 U.S. 483 (1954). The excruciating tension between the majestic ruling of the Supreme Court and the tugs of local warmth of home, church, tavern, and neighborhood is vividly portrayed in the lives of three families in Boston wrenched by the demands of desegregation; see J. Anthony Lukas, *Common Ground: A Turbulent Decade in the Lives of Three American Families* (New York: Knopf, 1985). After 15 years of intense community turmoil, the U.S. Court of Appeals for the First Circuit on September 29, 1987 overturned District Judge W. Arthur Garraty's orders, beginning in 1974, requiring the Boston School Committee to use racial guidelines in assigning students to the public schools.

25. *Milliken v. Bradley*, 418 U.S. 717 (1974).

26. See especially Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Knopf, 1976); and Gary Orfield, *Must We Bus? Segregated Schools and National Policy* (Washington, D.C.: Brookings Institution, 1978). The Harris poll was reported in *Education Week*, January 21, 1987, p. 6. For a short recent analysis, see Hugh W. Speer, "The Case of the Century: *Brown v. Board of Education of Topeka*," in *this Constitution*, Spring 1987, pp. 24-32. For a review of several recent books dealing with the busing question in Nashville, Mecklenburg, North Carolina, and Boston,

see Ronald D. Cohen, "To Bus or Not to Bus? That Is the Question," *History of Education Quarterly*, Fall 1987, pp. 379-386.

27. *Columbus Board of Education v. Penick*, 443 U.S. 449 (1979) and *Dayton Board of Education v. Brinkman*, 443 U.S. 526 (1979).

28. *Keyes v. School District No. 1*, 413 U.S. 189 (1973).

29. *The New York Times*, February 26, March 1 and 6, 1978; and "20 Years After the Kerner Report," February 29, 1988.

30. For an early judgment of the case, see Joel Dreyfuss and Charles Lawrence, 3d, *The Bakke Case* (New York: Harcourt Brace Jovanovich, 1979). For a later judgment, see Levy, *Encyclopedia of the American Constitution*, article on *Regents of the University of California v. Bakke*.

31. *United Steel Workers of America v. Weber*, 443 U.S. 193 (1979); and *Wygant v. Jackson (Mich.) Board of Education*, 106 S Ct 1842 (1986).

32. *Local 93 of the International Association of Firefighters v. City of Cleveland*, 106 S Ct 3063 (1986); *Local 28 of the Sheet Metal Workers v. Equal Employment Opportunity Commission*, 106 S Ct 3019 (1986); and *United States v. Paradise*, No. 85-999.

33. Laurence H. Tribe, *Constitutional Choices* (Cambridge, Mass.: Harvard University, Press, 1985).

34. *Johnson v. Transportation Agency, Santa Clara County*, No. 85-1129.

35. *St. Francis College v. Al-Khazraji*, No. 85-2169; and *Shaare-Tefila Congregation v. Cobb*, No. 85-2156.

36. *Grove City College v. Bell*, 465 U.S. 555.

37. David K. Kirp, Mark G. Yudof, and Marlene Strong Franks, *Gender Justice* (Chicago: University of Chicago Press, 1986). See also special section on "Women in Education," *Phi Delta Kappan*, March 1986.

38. Nathan Glazer, *Affirmative Discrimination; Ethnic Inequality and Public Policy* (New York: Basic Books, 1974), Chapter 1; Robert H. Wiebe, *The Segmented Society; An Historical Preface to the Meaning of America* (New York: Oxford University Press, 1975); Milton M. Gordon, *Assimilation in American Life; The Role of Race, Religion, and National Origins* (New York: Oxford University Press, 1964); and John Higham, "Integration vs. Pluralism: Another American Dilemma," *The Center Magazine*, July/August 1974, pp. 67-73.

39. Harold R. Isaacs, "The New Pluralists," *Commentary*, March 1972, pp. 75-79.

40. Higham, "Integration vs. Pluralism," pp. 72-73.

41. Michael Kammen, *People of Paradox; An Inquiry Concerning the Origins of American Civilization* (New York: Vintage Books, 1973), p. 60.

42. Ibid., p. 85.

43. See Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley, Calif.: University of California Press, 1985); and Levy, *Encyclopedia of the American Constitution*, articles on American Indians and the Constitution; Chinese Exclusion Act; and *Lau v. Nichols*.

44. *Plyler v. Doe*, 457 U.S. 202 (1982).

45. For useful materials to aid teachers to teach about the "new immigration," see the articles and bibliographies in *Social Education*, March 1986.

46. See *Education Week*, June 17, 1987.

47. *Lau v. Nichols*, 414 U.S. 563 (1974).

48. See a special report on "Bilingual Education: Language, Learning, and Politics," *Education Week*, April 1, 1987, pp. 19-50; also March 18, 1987 and March 25, 1987.

49. Robert M. MacIver, *The Web of Government* (New York: Macmillan, 1947), p. 83; and Mortimer J. Adler, *We Hold These Truths; Understanding the Ideas and the Ideals of the Constitution* (New York: Macmilan, 1987).

50. Leonard Krieger, "The Idea of Authority in the West," *American Historical Review*, April 1977, pp. 249-270.

51. *The New York Times*, January 24, 1974.

52. John W. Gardner, *The Nature of Leadership; Introductory Considerations* (Washington, D.C.: Independent Sector, 1986), p. 6.

53. Kenneth D. Benne, *A Conception of Authority* (New York: Teachers College, Columbia University, 1943; New York: Russell and Russell, 1971).

54. David Nyberg, *Power Over Power* (Ithaca, N.Y.: Cornell University Press, 1981).

55. Henry A. Giroux, "Authority, Intellectuals, and the Politics of Practical Learning," *Teachers College Record*, Fall 1986. See also articles by David Nyberg and Paul Farber, Kenneth Benne, Dale Mann, and others.

56. For excellent curricular materials for grades K-12, see Law in a Free Society, *Authority* (Calabasas, Calif.: Center for Civic Education, 1977). For constitutional issues, see Levy, *Encyclopedia of the American Constitution*, articles on Compelling State Interest and Federalism.

57. See Levy, *Encyclopedia of the American Constitution;* articles entitled: Abortion and the Constitution; Fourth Amendment (Historical Origins); *Griswold v. Connecticut; New Jersey v. T.L.O.*; Privacy and the First Amendment; Right of Privacy; *Roe v. Wade*; Searches and Seizures; Substantive Due Process; and Unreasonable Search. For curriculum materials, kindergarten through 12th grade, see Law in a Free Society, *Privacy* (Calabasas, Calif.: Center for Civic Education, 1979; and American Bar Association, *Update on Law-Related Education*, Spring 1981, Spring 1982, and Fall 1983.

58. See, for example, Alan F. Westin, *Privacy and Freedom* (New York: Atheneum Press, 1970); Charles Fried, *An Anatomy of Values* (Cambridge, Mass.: Harvard University Press, 1970); and J. Roland Pennock and John W. Sherman, eds., *Privacy* (New York: Atherton Press, 1971).

59. *Griswold v. Connecticut*, 381 U.S. 479 (1965); and *Roe v. Wade*, 410 U.S. 113 (1973).

60. *Bowers v. Hardwicke*, 106 S Ct 2841 (1986).

61. *Wort v. Vierling*, U.S. District Court for the Central District of Illinois, September 1984; 778 F 2nd 1233.

62. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

63. *Olmstead v. Connecticut*, 277 U.S. 438 (1928), p. 438.

64. Levy, *Encyclopedia of the American Constitution*; see articles entitled: Children's Rights, Double Jeopardy; Exclusionary Rule; Fair Trial; Fifth Amendment; Fourteenth Amendment; *In Re Gault; Goss v. Lopez;* Habeas Corpus; Juvenile Proceedings; Loyalty Security Programs; Miranda Ruling; Procedural Due Process, Civil; Procedural Due Process, Criminal; Right Against Self-Incrimination; Trial by Jury.

65. Law in a Free Society, *Justice* (Calabasas, Calif.: Center for Civic Education, 1979); Constitutional Rights Foundation, *Living Law: Civil Justice* (New York: Scholastic Book Services, 1978); Constitutional Rights Foundation, *Living Law: Criminal Justice* (New York: Scholastic Book

Services, 1978); National Street Law Institute, *Street Law: A Course in Practical Law* (St. Paul, Minn.: West Publishing Co., 1975; 3rd ed., 1986); and American Bar Association, *Update on Law-Related Education*, Spring 1987 and Fall 1983.

66. Isidore Starr, *Justice: Due Process of Law* (St. Paul, Minn.: West Publishing Co., 1981).

67. Louis Fischer and David Schimmel, *The Civil Rights of Teachers* (New York: Harper and Row, 1973); David Schimmel and Louis Fischer, *The Civil Rights of Students* (New York: Harper and Row, 1975); and David Schimmel and Louis Fischer, *The Rights of Parents in the Education of Their Children* (Columbia, Md.: National Committee for Citizens in Education, 1977).

See also, Alan Levine, et al., *The Rights of Students; the Basic ACLU Guide to a Student's Rights* (New York: Richard Baron, 1973); David Rubin, *The Rights of Teachers* (New York: Bantam Books, 1984); and Martin Guggenheim and Alan Sussman, *The Rights of Young People* (New York: Bantam, 1985).

68. Barbara Campbell, "Children's Rights Drive Is Centered in Courtroom," *The New York Times*, October 31, 1976. For an excellent variety of articles on a wide range of childrens' rights, introduced by Senator Walter F. Mondale, see two special issues of the *Harvard Educational Review*, November 1973 and February 1974.

69. *In Re Gault*, 387 U.S. 1 (1967).

70. *McKiever v. Pennsylvania*, 403 U.S. 528 (1971).

71. *Goss v. Lopez*, 419 U.S. 565 (1975).

72. *Wood v. Strickland*, 420 U.S. 308 (1975).

73. *Ingraham v. Wright*, 430 U.S. 651 (1977).

74. See, for example, Elmer U. Clawson, *Our Economy; How It Works* (Menlo Park, Calif.: Addison-Wesley, 1984); and *Model Curriculum Standards; Grades Nine through Twelve* (Sacramento, Calif.: California State Department of Education, 1985), pp. HS 51-59.

75. See Law in a Free Society, on *Property* (Calabasas, Calif.: Center for Civic Education, 1974); and American Bar Association *Update on Law-Related Education*, Spring 1987.

76. See Levy, *Encyclopedia of the American Constitution*, articles entitled Affected with a Public Interest; Contract Clause; *Dartmouth College v.*

Woodward; Dred Scott v. Sandford; Due Process of Law; Economic Liberties; Economic Regulation; Eminent Domain; Freedom of Contract; Natural Rights; Obligation of Contracts; Police Power; Public Purpose; Substantive Due Process; Social Compact; State Police Power; Taking of Property. Matters of property are treated extensively in Forrest McDonald, *Novus Ordo Seclorum; The Intellectual Origins of the Constitution*, (Lawrence: University Press of Kansas, 1985).

77. Betty Southard Murphy, "The Commercial Republic and the Dignity of Work," *National Forum*, Fall 1984, pp. 49-52.

78. Jack P. Greene, "The Pursuit of Happiness: the Private Realm, Commerce, and the Constitution," *this Constitution*, Fall 1985, p. 40.

79. Charles A. Lofgren, "To Regulate Commerce: Federal Power under the Constitution," *this Constitution*, Spring 1986, pp. 4-11. See also Kenneth M. Dolbeare and Linda J. Medcalf, "The Political Economy of the Constitution," *this Constitution*, Spring 1987, pp. 4-10.

80. Kenneth M. Holland, "The Constitution and the Welfare State," *this Constitution*, Summer 1986, pp. 18-23. See also Charles A. Reich, "The New Property," *Yale Law Journal*, April 1964, esp. pp. 771-774 and 778-786.

81. James McGregor Burns and Richard B. Morris, "The Constitution: Thirteen Crucial Questions," *this Constitution*, September 1983, p. 8.

82. Stephen K. Bailey, *The Purposes of Education* (Bloomington, Ind.: Phi Delta Kappa, 1976), pp. 84-94. This extract from Chapter 6, entitled "The Enveloping Polity" was substantially reprinted in National Task Force on Citizenship Education, *Education for Responsible Citizenship* (New York: McGraw-Hill, 1977), pp. 32-40.

83. See Edward Schwartz, *The Institute Papers: Towards a Recovery of Civic Idealism* (Philadelphia: Institute for the Study of Civic Values, 1975) and the analysis in Robert N. Bellah, et. al., *Habits of the Heart* (Berkeley: University of California Press, 1985), esp. pp. 214-218; and Fred Newmann, "Visions of Participation to Guide Community Learning," unpublished paper prepared for the Banff conference on Community and the School Curriculum, sponsored by the Department of Secondary Education, University of Alberta, November 9, 1978. For discussion of "mediating structures," see also, Peter Berger, *To Empower People: The Role of Mediating Structures and Public Policy* (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1977).

84. Benjamin R. Barber, *Strong Democracy; Participatory Politics for a New Age* (Berkeley: University of California Press, 1984).

85. Benjamin R. Barber, "Voting is Not Enough," *Atlantic Monthly*, June 1984, p. 52. Compare with Levy, *Encyclopedia of the American Constitution*, articles on Citizenship, Popular Sovereignty, and Voting Rights.

86. David Mathews, *Democracy: Principles and Practices* (Dayton, Ohio: Domestic Policy Association, June 1987.

87. Ibid., pp. 138-139. See also David Mathews, "The Independent Sector and the Political Responsibilities of the Public" (New York: Spring Research Forum of the Independent Sector, March 19, 1987).

88. Lyman Bryson, ed., *An Outline of Man's Knowledge of the Modern World* (New York: McGraw-Hill, 1960), p. 3.

89. Ibid., p. 14.

90. Ibid., p. 26.

91. Alexander Meiklejohn, *Political Freedom*, pp. 59-60.

92. Mortimer Adler, *Six Great Ideas: Truth, Goodness, Beauty, Liberty, Equality, Justice* (New York, Macmillan, 1981), p. 34.

93. Robert S. Peck and Mary Manemann, eds., *Speaking and Writing Truth; Community Forums on the First Amendment* (Chicago: American Bar Association, 1985). See also Levy, *Encyclopedia of the American Constitution*, articles on Libel and the First Amendment, Seditious Libel.

94. Walter Lippmann, *Essays in the Public Philosophy* (New York: New American Library, 1956).

95. For a variety of views calling for a reassertion of religion in public affairs, see Parker Palmer, *The Company of Strangers; Christians and the Renewal of America's Public Life* (New York: Crossroad, 1981); Richard John Neuhaus, *The Naked Public Square* (Grand Rapids, Mich.: Eerdmans, 1984); A. James Reichley, *Religion in American Public Life* (Washington, D.C.: Brookings Institution, 1985); and Richard John Neuhaus and Michael Cromartie, eds., *Piety and Politics; Evangelicals and Fundamentalists Confront the World* (Washington, D.C.: Ethics and Public Policy Center, 1987).

96. A classic statement on the obligation of schools to teach democracy in a world at war was made by an erstwhile social studies teacher before he won a Pulitzer Prize for his *Tales of the South Pacific*. See James A. Michener, "What Are We Fighting For?" *Progressive Education*, November 1941, pp. 342-348; reprinted in *The Educational Forum*, Summer 1987, pp. 331-339.

97. See Levy, *Encyclopedia of the American Constitution*, articles on Loyalty Oath, Loyalty-Security Programs, McCarthyism.

98. Robert N. Bellah, et al., *Habits of the Heart; Individualism and Commitment in American Life* (New York: Harper and Row, 1985). For curriculum materials stressing citizens' obligations, kindergarten through grade 12, see Law in a Free Society, *Responsibility* (Calabasas, Calif.: Center for Civic Education, 1979).

99. Merle Curti, *The Roots of American Loyalty* (New York: Columbia University Press, 1946; reissued by Atheneum Press, New York, 1968), p. vii.

100. Ibid., p. xiv.

101. Morris Janowitz, *The Reconstruction of Patriotism; Education for Civic Consciousness* (Chicago: University of Chicago Press, 1983); paperback edition, 1985, p. ix.

102. Ibid., p. 30.

103. Richard Danzig and Peter Szanton, *National Service: What Would It Mean?* (New York: Ford Foundation, 1986).

104. Janowitz, *Patriotism*, p. 145-146.

105. Ibid., p. 145.

106. Michael Walzer, *Obligations; Essays on Disobedience, War, and Citizenship* (Cambridge, Mass.: Harvard University Press, 1970); Duane E. Smith, "The Case for Patriotism," *Freedom at Issue*, May-June 1973, pp. 9-13; John W. Gardner, *Morale* (New York: W.W. Norton, 1978); People for the American Way, *Quarterly Report*, June 1981, p. 1; Jack Beatty, "The Patriotism of Values," *The New Republic*, July 4 and 11, 1981; R. W. Apple, Jr., "New Stirrings of Patriotism," *The New York Times Magazine*, December 11, 1983; Orrin G. Hatch, "Civic Virtue: Wellspring of Liberty," *National Forum*, Fall 1984, pp. 34-38; Neely D. McCarter "The Church and Patriotism," *Pacific School of Religion Bulletin*, Fall 1986; The Patriotic Majority, "Toward a Patriotic Rebirth: A Patriotic Agenda for the 100th Congress," adv., *The New York Times*, January 25, 1987, p. 24.

107. For emphasis on global interdependence as it relates to education see, for example, Lee Anderson, *Schooling and Citizenship in a Global Age* (Bloomington, Ind.: Mid-America Program for Global Perspectives in Education, 1978); the Interdependence Series published by the Aspen Institute for Humanistic Studies, especially Ward Morehouse, *A New Civic*

Literacy; American Education and Global Interdependence (Princeton, N.J.: Aspen Institute, October 1975).

For more current studies, see the special issues on international human rights and global education in *Social Education*, September 1985 and October 1986; the publications of Global Perspectives in Education, 45 John Street, New York, N.Y. 10038; Social Science Education Consortium, Boulder, Colo.; Center for Teaching International Relations, University of Denver; Foreign Policy Association, New York City; Michigan Department of Education, Lansing; and New York State Education Department, Albany.

108. See for example, Gregg L. Cunningham, "*Blowing the Whistle on 'Global Education'*," (Denver: Regional Office, U.S. Department of Education, 1986). See the responses to Cunningham's study by Barry Simmons, director of the Center for Teaching International Relations at the University of Denver, and Andrew Smith, president of Global Perspectives in Education, in *The Social Studies Professional*, September/October 1986. In January 1987 the board of directors of the National Council for the Social Studies unanimously adopted the report of its Ad Hoc Committee on Global Education replying to the Cunningham study, "Global Education: In Bounds or Out?" *Social Education*, April/May 1987, pp. 242-249.

109. Study Commission on Global Education, *The United States Prepares for Its Future; Global Perspectives in Education* (New York: Global Perspectives in Education, 1987).

110. See, e.g., R. Freeman Butts, "International Human Rights and Civic Education" in Margaret Stimmann Branson and Judith Torney-Purta, eds., *International Human Rights, Society, and the Schools* (Washington, D.C.: National Council for the Social Studies, 1982). For other publications of mine on international education, see R. Freeman Butts, *American Education in International Development* (New York: Harper and Row, 1963); "Teacher Education and Modernization" in George Z.F. Bereday, ed., *Essays on World Education* (New York: Oxford University Press, 1969); "Civilization as Historical Process: Meeting Ground for Comparative and International Education," *Comparative Education*, Vol. III, No. 3, June 1967; "America's Role in International Education" in Harold G. Shane, ed., *The United States and International Education*, 68th Yearbook of the National Society for the Study of Education (Chicago: University of Chicago Press, 1969); and "Teacher Education in Africa: Modernization and Traditionalism Reconsidered" in Andrew Taylor, ed., *Insights Into African Education; the Karl W. Bigelow Memorial Lectures* (New York: Teachers College Press, 1984), pp. 75-104.

111. See, e.g., Bernard Bailyn, *The Peopling of British North America; An Introduction* (New York: Knopf, 1986).

112. For a useful compendium of the United Nations documents, see Thomas Burgenthal and Judith V. Tomey, *International Human Rights and International Education* (Washington, D.C.: U.S. National Commission for UNESCO, 1976); see also Howard D. Mehlinger, ed., *UNESCO Handbook for the Teaching of Social Studies* (London: Croom Helm, 1981); Donald Vandenberg, *Human Rights in Education* (New York: Philosophical Library, 1983); and The Atlantic Council's Working Group on the Successor Generation, *The Teaching of Values and the Successor Generation* (Washington, D.C.; The Atlantic Council of the United States, 1983.)

113. A.M. Rosenthal, "Journey Among Tyrants," *The New York Times Magazine*, March 23, 1986.

114. *Social Studies 9 and 10: Global Studies; Tentative Syllabus* (Albany, N.Y.: New York State Education Department, 1987), p. 21.

INDEX

Ackerman, Bruce A., 137,209
Ackerman, J. Waldo, 159
Adams, Charles K., 7
Adams, Herbert B., 10
Adams, John, 119,123,124
Adams, Sam, 125
Adler, Mortimer J., 155,172,213,217
Adler v. Board of Education, 143,210
Adolescent Family Life Act of 1981, 202
Aguilar v. Felton, 70,199
Augustus, 113
Alabama, 68,69,91,93,95
Alexander, 107
Alley, Robert S., 88,89,103,201,205
American Academy of Arts and Sciences, 21
American Bar Association, 58-60,62, 70,74,173,195,209
American Civil Liberties Union, 67, 94,161
American Coalition for Traditional Values, 88
American Council on Education, 158
American Federation of Teachers, 19, 24,191
American Historical Association, 10-12,20,26,27,38,39,42,46, 59,88,103,190
American Legion, 60
American Philosophical Society, 50
American Political Science Association, 12,46,55,56,62,88,102, 103,196,198
American Revolution, 49,90,116, 118,124,164,174
Americanization, 59
Americans United Research Foundation, 22
Anderson, Lee, 218
Anglican, 78
Anti-Federalist Papers, 127,208
Anti-Federalists, 49,90,125,126
Anti-Rats, 49
Antieau, Chester James, 198
Apple, Michael W., 193
Apple, R.W., Jr., 178,218
Arendt, Hannah, 103,170,204
Aristotle, 103,106-111,119,132,133, 135,144,206
Arkansas, 162
Aronowitz, Stanley, 193
Arons, Stephen, 197
Articles of Confederation, 125,127, 129,164,165
Aspen Institute for Humanistic Studies, 218
Association of American Colleges, 27
Association of American Law Schools, 62
Athens, 104-106,113,115,131
Atlantic Council, The, 220
Austin, Texas, 186

Bailey, Stephen K., 166-168,216
Bailyn, Bernard, 29,119,125,197, 206-208,220
Bakke case, 147,212
Ball, William Bentley, 198
Barber, Benjamin R., 103,130,133, 168-170,204,208,209,216,217
Barnard, Henry, 87
Barnette case, 60,73
Barr, Robert D., 14,190
Barth, James L., 14,190
Battistoni, Richard M., 207
Bayh, Birch, 161
Beard, Charles A., 12,29,30,190
Beatty, Jack, 25,178,218
Beiner, Ronald, 103,170,204
Bellah, Robert N., 103,130,175,204, 208,216,218
Bender, Thomas, 29,30,34,42,193

Bender v. Williamsport (Pa.) Area School District, 202
Benne, Kenneth D., 156,213,214
Bennett, H. Arnold, 196
Bennett, William, J., 18,20,72,91, 154,188,191,199
Berelson, Bernard, 102
Berger, Peter, 216
Berns, Walter, 68,198,199
Bethel School District v. Fraser, 211
Bible, 4,39,87,88,140
Bible reading, 65
Bicentennial, 34,45-47,49,75,101, 131,146,185,195
Bicentennial competition, 26,27,47-49,99,100
Bilingual Education Act, 153
Bill of Rights, 14,37,45-99,121,138, 140,158,202,210
Black, Hugo L., 67,68,142,143,198
Bolshevists, 58
Bork, Robert H., 35,75,95,131,158, 188
Boston, 186
Boston School Committee, 211
Bowen v. Kendrick, 202
Bowers v. Hardwicke, 214
Boyer, Ernest L., 1,38
Bragaw, Donald H., 38,100
Brandeis, Louis, D., 159
Branson, Margaret Stimmann, 219
Brennan, William J. Jr., 62,68,70,72-75,77,94,99,148,152,185,186, 188,197,200,210
British Parliament, 119,124
Brown v. Board of Education, 40,60, 75,145,152,186,211
Bruni, Leonardo, 116
Bryson, Lyman, 77,171,200,217
Buckley, James, 157
Buckley, William F., Jr., 88,199
Burgenthal, Thomas, 220
Burger, Warren E., 34,45,46,60,68, 70,152,162
Burns, James MacGregor, 88,103, 165,205,207,216
Burton, Harold H., 198
Butts, R. Freeman, 189,196,198, 200,201,203,209,210,219
Bystanders, 187

Calhoun, Daniel, 196
California, 44,63,153,163,168,182
California Framework for History-Social Science
(1975), 16
(1981), 15,31,33,35,39-41,133, 191,193,209
(1987-88), 22,32-34,39,41,100, 193
California Model Curriculum Standards, 1-3,32,189,215
California State Board of Education, 2,22,32,62,63,100,182,193,203
Campbell, Barbara, 215
Cardinal Principles of Secondary Education, 56,57,197
Carnegie Corporation, 12,59
Carnegie Forum on Education and the Economy, 101,204
Carnegie Foundation for the Advancement of Teaching, 27,38
Carper, James C., 198
Carrie Chapman Catt Fund, 62
Carroll, Charles, 81
Carter, Jimmy, 131
Catholics, 67,68,78
Center for Civic Education, 26,47,49, 196,203
Center for Research and Education in American Liberties, 62
Center for Teaching International Relations, University of Denver, 219
Central Intelligence Agency, 157
Champaign, Illinois, 67
Cheney, Lynne V., 20,38,191
Chicago, 62
Children's Defense Fund, 161
Christian Broadcasting Network, 88
Christian Fundamentalists, 91-93

Christian Nation Movement, 88
Christmas pageants, 39,65
Church of England, 69,77-79
Cicero, 113,119,134
Citizenship Education Project, 60
Civic humanism, 116
Civil Liberties Educational Foundation, 62
Civil Rights Act of 1866, 148
Civil Rights Act of 1964, 145,147, 148,153,164
Civil Rights Restoration Act, 186
Civil War, 51,52
Civilian Conservation Corps, 177
Civism, Twelve Tables of, 132,136
Clawson, Elmer U., 215
Cleisthenes, 105,106,113,115
CLIO Project, 2,3
Close-up Foundation, 208
Cochran case, 40
Cohen, Ronald D., 212
Columbia University, 63
Columbus Board of Education v. Penick, 212
Columbus, Ohio, 146,161
Combee, Jerry, 199
Commission on the Social Studies of the American Historical Association, 12,59
Committee of Ten, National Education Association, 6,8,10,20,39,189
Committee on Social Studies, National Education Association, 56
Communists, 58,60,142,173
Concerned Women for America, 93, 94
Congregationalists, 78
Congress, 61,69,70,79,90,91,127, 149,152,153,157,161,165,178, 186
Congressional Investigating Committees, 160
Connecticut, 58,78,79,82,86
Connolly, William E., 204
Conservative Digest, 88
Constitution, this, Project '87, 46,88, 103,195,201,205
Constitution, U.S., 7,9-12,14,20,21, 24,26,37,39,45-101,116,121, 124,125,128,129,132,141-143, 148,158,159,161,163-165,168, 182,185,205
Constitutional Convention, 46,47,75, 80,98,124,125,128,166,208
Constitutional Rights Foundation, 62, 63,195,208,214
Contras, 160
Cooley, Thomas, 67
Cooper v. Aaron, 75,200
Cord, Robert L., 68,69,89,90,199
Corpus Juris Civilis, 114
Corwin, Edward S., 67
Council for the Advancement of Citizenship, 37
Counts, Goerge S., 12
Court of Appeals, 6th Circuit, 92
Court of Appeals, 11th Circuit, 93
Cox, Archibald, 59,156,197
Crabtree, Charlotte, 193
Craig, Gordon, 38
Creationism, 91,94
Cremin, Lawrence A., 196
Cromartie, Michael, 217
Cunningham, Gregg L., 219
Curry, Thomas J., 201
Curti, Merle, 12,175,176,218

Daedalus, 21,27
Dahl, Robert, 102
Danzer, Gerald A., 27,192
Danzig, Richard, 177,218
Dartmouth College v. Woodward, 215,216
Davis, David Brion, 207
Davis, Father Thurston, 68
Davis, James E., 208
Davis, O.L., Jr., 23,25,192
Dayton, Ohio, 146
Dayton Board of Education v. Brinkman, 212

Declaration of Independence, 11,14, 119,128,144,165
Declaration of Rights, 120
Degler, Carl, 42,194
Delaware, 78
Democrat,52,187
Denver, 146
Detroit, 62
Dewey, John, 139
Diggins, John P., 207
Disaffecteds, 187
Dolbeare, Kenneth M., 216
Domestic Policy Association, 37,170, 208
Donald, David Herbert, 207
Douglas, William O., 62,68,143,153, 162,198
Downey, Arthur T., 198
Downey, Matthew T., 191,193
Dred Scott v. Sandford, 51,75,165, 216
Dreyfuss, Joel, 212
Dutch Reformed, 78
Dworkin, Ronald M., 137,209

Education of All Handicapped Children Act of 1975, 161
Education, U.S. Department of, 38, 72,91,153,154
Education Week, 191,192,194,197, 202,213
Educational Excellence Network, 19, 24,25,38
Educational Leadership, 198
Edwards, Don, 147
Edwards v. Aguilard, 202
Eighth Amendment, 160,162
Eisenhower, Dwight D., 76,140
Ellsberg trial, 157
Ellsworth, Oliver, 81
Elson, Ruth Miller, 4,189
Encyclopedia of the American Constitution, 89,160
English Commonwealth radicals, 88
English the official language, 150,153
Enlightenment, 88,89,119,183
Enterprise Republicans, 187
Episcopalians, 78
Equal Access Act, 39
Erickson, Donald A., 198
Essentials of Education, 14
Establishment Clause, 70,76-86,93, 210
Ethics, Aristotle's, 107,110,206
Etzioni, Amitai, 103,204
Everson v. Board of Education, 40, 60,65-68,70,84,86,197,198

Family Educational Rights and Privacy Act of 1974, 157
Fancher, Robert T., 191
Farber, Paul, 214
Fascist, 173,174
Faubus, Orval, 75
Federal Bar Association, 74
Federal Bureau of Investigation, 157
Federalist Papers, 48,88,96,127, 166,208
Federalists, 3,5,49-52,125,126,205
Fedyck, Micheline, 190
Feinberg law, 60,143
Femekes, William R., 191
Fifth Amendment, 41,63,140,141, 158,160
Finn, Chester E. Jr., 17,20-22,191
First Amendment, 39-41,60,63-66,68-70,72,76-90,93-96,98,140-143, 158,171,185,202,210
First Congress, 80
Fischer, Louis, 160,215
Fischer, Michael G., 100
FitzGerald, Frances, 30,193
Flathman, Richard, 102,103,156,204
Florida, 44,182
Flowers, Ronald B., 202
Followers, 187
Ford Foundation, 62,177
Ford, Gerald, 146

Foreign Policy Association, 208,219
Founders' Constitution, The, 96
Fourteenth Amendment, 40,41,60, 66,69,70,73-76,83,86,94,132, 140,141,145,152,158,159,161, 205
Fourth Amendment, 157,158,159
Frankel, Charles, 36,193
Frankfurter, Felix, 142,143,198
Franklin, Benjamin, 74,119
Franks, Marlene Strong, 212
Freedom Council Foundation, 94
Freedom House, 19,24
French Revolution, 116-118,134
Freund, Paul A., 96,203
Fried, Charles, 214
Friedman, Lawrence, 209
Fund for the Republic, 62

Gagnon, Paul A., 24,25,38,191,192
Gales, Joseph, 200,208
Gallup Study, 187
Gardner, John W., 156,178,213,218
Garraty, W. Arthur, 211
Georgetown University, 63
Georgia, 78,79,81,86
Germans, 53
Gerry, Elbridge, 125
Gettysburg, 106
Gifford, Bernard R., 189
Ginn, 93
Giroux, Henry A., 156,193,214
Glazer, Nathan, 150,212
Global Perspectives in Education, 179,183,219
Gobitis case, 60
Goodman, Ellen, 188
Gorbachev, Mikhail, 182
Gordon, Milton M., 150,212
Goss v. Lopez, 161,162,214,215
Grand Rapids, Michigan, 70
Graubard, Stephen R., 21,192
Greek Republics, 88,89,104,105, 133-135,165,171,183
Greene, Jack P., 103,125,164,205, 216
Grenada, 178
Griswold v. Connecticut, 214
Grove City College v. Bell, 149, 186,212
Guggenheim, Martin, 215
Guicciardini, 116

Hadrian, 114
Hall, Kermit L., 192
Hamilton, Alexander, 125,127,163
Hand, W. Brevard, 68-70,92
Harcourt Brace Jovanovich, 93
Harrington, James, 119
Harris, David F., 27,192
Harris poll, 211
Hart, Albert Bushnell, 7,10
Hartnett, Father Robert, 68
Harvard Educational Review, 215
Haskins, Charles H., 7,10
Hatch, Orrin G., 70,91,178,218
Hawke, Sharryl Davis, 208
Haynes, Charles C., 22,192
Hazelwood School District v. Kuhlmeier, 185,186,188,211
Health, Education, and Welfare, U.S. Department of, 158
Hearst papers, 60
Hearst Report, 98,203
Helms, Jesse, 69
Helsinki Final Act of 1975, 182
Henry, Patrick, 125
Hertzberg, Hazel Whitman, 3,6,13, 38,189,190,196
Hexter, J.H., 29
Higham, John, 150,212,213
Hiner, N. Ray, 190
Hirschman, Albert O., 103,204
History Teaching Alliance, 26
Hobbes, Thomas, 88,170
Hoff-Wilson, Joan, 23

Hofstadter, Richard, 30
Hogan, Frank J., 60
Holland, Kenneth M., 103,164,205, 216
Holt, Rinehart and Winston, 92,93
Holy Roman Empire, 114
Honig, Bill, 2
Honig v. Doe, 186
Horowitz, Donald L., 213
Houghton Mifflin, 93
House of Representatives, 58,80-82, 87,126,128,149
House Un-American Activities Committee, 60
Howard, A.E. Dick, 72,76,88,103, 205
Howe, Harold, II, 21
Howe, Mark DeWolfe, 67
Huggins, Nathan L., 38
Hull, Thomas G., 91
Hume, David, 88,163
Hunt, Thomas C., 198
Hutson, James C., 82
Hutson, James H., 206,211

In Re Gault, 214,215
Independent Sector, 156
Ingraham v. Wright, 215
Institute for Political and Legal Education, 208
Institute for the Study of Civic Values, 216
Iran, 160,173
Iran-Contra Affair, 34,61,75,101, 130,131,171
Irish, 53
Isaacs, Harold R., 213
Islam, 93
Isocrates, 111-113

Jackson, Kenneth T., 38
Jackson, Robert H., 73,198
Jaffree v. Board of School Commissioners of Mobile County, 199
James Madison High School, 188
Janowitz, Morris, 103,176,177,179, 204,218
Jaworski, Leon, 62
Jay, John, 125,127
Jefferson, Thomas, 4,5,40,67,74,87, 94,95,119,127,142,170,189
Jefferson Foundation, 208
Jeffersonian Republican, 3,50,51,73
Job Corps, 177
Johnson, Lyndon B., 140,173
Johnson v. Transportation Agency, Santa Clara County, 212
Jones, Thomas Jesse, 57
Journal of American History, 30
Judaism, 93
Judeo-Christian, 72,183,184
Julian, Joseph V., 208
Justice Department, 62,68,76,91,95, 140,148,149
Justinian, 114
Juvenile Justice and Delinquency Prevention, 62,161

Kammen, Michael, 38,88,151,197, 207,213
Karcher v. May, 202
Karier, Clarence, 30
Karst, Kenneth L., 201,210
Katz, Ellis, 22, 192
Katz, Michael S., 30
Keller, Claire, 195
Kennedy, John F., 140
Kentucky and Virginia Resolutions, 51
Kerensky, Alexander, 131
Kerner Commission, 147
Kerr, Clark, 179
Ketcham, Ralph, 127,207,208
Kettering Foundation, 170
Kettering Review, 200
Kettner, James H., 202,207
Keyes v. School District No. 1, 212
Keyishian v. Board of Regents, 143, 210

Kilpatrick, James J., 88,188
Kirkpatrick, Jeane, 191
Kirp, David K., 212
Kluger, Richard, 211
Knights of Columbus, 72
Knox, Samuel, 50
Konvitz, Milton, 67
Korean War, 174
Krieger, Leonard, 155,213
Ku Klux Klan, 58
Kurland, Philip B., 67,96,201,202
Kurtz, Stephen G., 206,211

Lau v. Nichols, 153,213
Law Enforcement Assistance Administration, 62
Law in a Free Society, 62,163,209, 214,215,218
Law-related education, 62,63,101
Lawrence, Charles, 212
Laws of the Twelve Tables, 133,134
League of Women Voters, 62
Lear, Norman, 178
Lee, Gordon C., 196
Lee, Richard Henry, 125
Lemon v. Kurtzman, 68,198
Lengel, James G., 27,192
Lerner, Ralph, 96,201,202
Lessons on the Constitution, 46
Leuchtenberg, William E., 38
Levine, Alan, 215
Levy, Leonard W., 76,89-91,198, 201,210-215,217,218
Lewis, Anne C., 192
Liberty Federation, 88
Lincoln, Abraham, 106
Link, Arthur S., 38,194
Lippmann, Walter, 174,217
Lipset, Seymour Martin, 102
Little Rock, Arkansas, 75
Litwack, Leon F., 38
Livingston, Robert R., 119
Local 93 of the International Association of Firefighters v. City of Cleveland, 212
Local 28 of the Sheet Metal Workers v. Equal Employment Opportunity Commission, 212
Locke, John, 88,119,163,170
Lockwood, Alan L., 27,192
Lofgren, Charles A., 164,216
Louisiana, 94
Lukas, J. Anthony, 211
Lutheran, 78
Lutz, Donald S., 88,103,205

Macedonian Empire, 112
Machiavelli, 116
MacIver, Robert M., 154,155,213
Macmillan, 93
Madison Conference on History, Civil Government and Political Economy, 6-10,20
Madison, James, 66-68,73,74,87, 89,90,94-96,125,127,128,142, 163,205
Magna Carta, 134
Mahoney, Dennis J., 201,210
Malbin, Michael J., 68,89,198
Manemann, Mary, 173,217
Mann, Dale, 214
Mann, Horace, 52-54,63,87
Marshall, Thurgood, 75,188,200
Maryland, 58,78,79,86
Mason, George, 120
Massachusetts, 52,53,74,78,79,81, 86,90
Massachusetts Constitution of 1780, 78,123,124
Mathews, David, 170,217
Mayflower Compact, 124
McCarter, Neely D., 178,218
McCarthy era, 60,142,174,175
McCollum v. Board of Education, 60, 65,67,84,197
McDonald, Forrest, 207,216
McGraw-Hill, 93
McGuffey readers, 87

McKlever v. Pennsylvania, 215
McLaughlin, Andrew C., 10
McLaurin case, 60
McNeill, William H., 28,38,193
Medcalf, Linda J., 216
Meese, Edwin, III, 70,71,74,75,77, 91,95,148,199
Mehlinger, Howard D., 195,220
Meiklejohn, Alexander, 141,172, 210,217
Meiklejohn, Donald, 208
Merriam, Charles E., 12,190
Metcalf, Fay D., 194
Meyer, Howard N., 103,205
Michener, James A., 217
Michigan Department of Education, 219
Middle Ages, 114,115
Mill, John Stuart, 170
Miller, Page Putnam, 192
Miller, Robert T., 202
Miller, William Lee, 94,202
Milliken v. Bradley, 211
Milton, John, 119
Miranda ruling, 214
Mississippi, 58
Mondale, Walter F., 215
Monroe, Paul, 209
Montana, 58
Montesquieu, 88,119
Moral Majority, 88
Moral Republicans, 187
Morehouse, Ward, 218
Morgan, Edmund, 144,211
Morris, Richard B., 88,103,165,205, 216
Moses, 133
Mozert v. Hawkins County Public Schools, 201
Murchland, Bernard, 170,171
Murphy, Betty Southard, 163,216
Murphy, Frank, 198
Murphy, Paul L., 28,88,103,193,197
National Advisory Commission on Civil Disorders, 147
National Assembly on Teaching the Bill of Rights, 62
National Assessment of Educational Progress, 20,22,55
National Bicentennial Competition on the Constitution and Bill of Rights, 26,27,47-49,99,100
National Citizens' Committee on Education, 157
National Commission on the Social Studies, 38
National Coordinating Committee for the Promotion of History, 26
National Council for the Social Studies, 14-16,26,38,47,62, 170,190,195,208,219
National Education Association, 6,8, 10,12,20,39,56,189
National Endowment for the Humanities, 18,20,27,38,47,102
National Honor Society, 41
National Issues Forum, 170,208
National Municipal League, 12
National Origins Act, 58
National Security League, 58
National Street Law Institute, 215
National Task Force on Citizenship Education, 216
Nativity scenes, 66
Nazi, 174
Neuhaus, Richard John, 217
Nevins, Jane, 46
New Deal, 12,59,97,130,163
New Deal Democrats, 187
New England Primer, 4,87
New Englanders, 4,78
New Frontier/Great Society, 97
New Hampshire, 78,79,86
New Jersey, 67,78,95,125
New Jersey v. T.L.O., 159,214
New Netherlands, 78
New Right, 63
New Social Studies, 13,16,62

New York, 44,60,78,79
New York City, 62,70
New York State Board of Regents, 44, 100,131
New York State Education Department, 43,100,219
New York State Syllabus in Social Studies, 43,44,132,183,194, 203,208,220
New York Times Book Review, 29, 208
New York Times, 19,21,99,130,161, 199,200,212,213,215
New York Times Magazine, 46
Newmann, Fred, 167,216
Newsweek, 208
Nicaragua, 173
Nisbet, Robert, 25,105,107,113,114, 117,122,206,207
Nixon, Richard M., 61,146,162,173
North Carolina, 44,78,79
North, Oliver L., 131
Northern states, 75
Northwest Ordinance, 90,145
Nozick, Robert, 139,210
Nyberg, David, 156,213,214

O'Connor, Sandra Day, 70,99,148, 153
O'Neil, Robert M., 197,210
O'Neill, James M., 67-69,89,198
Oklahoma City, 186
Oklahoma Oath Law, 142
Old and New Testaments, 79
Olmstead, Roy, 159
Olmstead v. Connecticut, 214
Olympic Games, 178
Orfield, Gary, 211
Organization of American Historians, 18,23,26,38
Orlov, Yuri, 182
Orwell, George, 28,157

Paine, Thomas, 74
Palmer, Parker, 171,217
Palmer, Robert R., 116,117,122-124, 206-208
Panetta, Leon, 177
Pangle, Thomas L., 88,103,205
Parsons, Wilfrid, S.J., 67,198
Partisan Poor, 187
Passive Poor, 187
Pateman, Carole, 103,204
Paterson, William, 81
Patrick, John J., 26,195
Patriotic Majority, 178,218
Peace Corps, 177
Peck, Robert S., 173,195,217
Peloponnesian War, 106,111
Pennock, J. Roland, 103,205,214
Pennsylvania, 74,78
People for the American Way, 22,23, 93,94,178,218
Pericles, 103,106,170
Perkinson, Henry, 30,193
Peters, William, 207
Peyser, Minna Post, 197
Pfeffer, Leo, 67,88,198,201
Philip, King, 107
Philosophy and Public Affairs, 135, 206
Piscataway High School, 159
Plato, 106,109,111,119,140
Plyler v. Doe, 213
Pocock, J.G.A., 116,206
Pole, J.R., 208
Politics, Aristotle's, 107,110
Populist Conservative Tax Coalition, 88
Powell, Lewis, 75,93,94
Preamble, 128
Presbyterian, 78
Prewitt, Kenneth, 171
Prince, The, Machiavelli's, 116
Pritchett, C. Herman, 67,88,201
Progressives, 57,59,97,130
Project '87, 46,88,100,103,165,195

Proposition 13, 168
Protestants, 4,5,58,68,78,79,87,89, 96,97
Protestants and Others United for Separation of Church and State, 67
Public Agenda Foundation, 170
Public Interest, The, 206
Puritan, 119

Quigley, Charles N., 99
Quintilian, 113

Rakove, Jack N., 103,205
Rand McNally, 93
Rats, 49
Ravitch, Diane, 17,20-22,30,191,193
Rawls, John, 103,135,137-140,144, 204,209
Reagan, Ronald, 71,72,88,91,146, 148,149,173,178
Reconstruction, 51,74,97
Reed, Stanley E., 198
Rees, Grover, 71
Reformation, 78
Reformed Church, 78
Regents of the University of California v. Bakke, 147,212
Rehnquist, William H., 69,70,93-95, 149,153,162,188,199
Reich, Charles A., 164,216
Reichley, A. James, 199,217
Remy, Richard C., 26,195
Renaissance, 88,115,116
Republic, Plato's, 107
Republicans, 51,52,187
Research for Better Schools, 193
Revolutionary Era, 97,125,126,144
Reynolds, William Bradford, 74
Rhode Island, 78
Riesenberg, Peter, 115,206
Roberts, Edward C., 198
Robertson, Pat, 92,94
Robinson, James Harvey, 7,12,29, 190
Rockefeller Commission on the Humanities, 27
Roe v. Wade, 214
Roman Catholics, 53,78,87
Roman Empire, 112-115
Roman law, 114,115,134
Roman Republic, 88,104,111,113, 115,119,131,133-135,155,183
Rosenthal, A.M., 182,220
Rossiter, Clinton, 207
Rousseau, Jean Jacques, 103,119, 122-124,170,207
Rubin, David, 215
Rudolph, Frederick, 196
Rugg, Harold, 50
Rutledge, Wiley B., 67,198

Sakharov, Andrei, 182
Sallust, 119
Sandel, Michael J., 103,135,171, 204,209
Santa Clara, County of, 148
Savage, David G., 95,202
Scalia, Antonin, 94,149,188
Scharr, John, 204
Schimmel, David, 160,215
Schlesinger, Arthur M., Jr., 133,209
Scholastic Update, 208
Schwartz, Edward, 167,216
Schwartz, Herman, 72,76
Scott, Foresman, 93
Secular Humanism, 91-93
Seculars, 187
Senate, 68,69,80,81,86,149
Senate Judiciary Committee, 69,76,91
Seventh Amendment, 160
Sewall, Gilbert T., 25,192
Shaare-Tefila Congregation v. Cobb, 212
Shcharansky, Anatoly, 182
Sherman Antitrust Act of 1890, 163
Sherman, John W., 214

Sherman, Roger, 81,82,119
Shermis, S. Samuel, 14,190
Shillings, Denny, 195
Sidney, Algernon, 119
Simmons, Barry, 219
Simon, Sidney, 16,191
Sixth Amendment, 160
'60s Democrats, 187
Smith, Adam, 163
Smith, Andrew, 219
Smith, Duane E., 178,218
Smith, Rogers M., 88,89,103,202, 205
Smith, Samuel Harrison, 50
Smith v. Board of School Commissioners of Mobile County, 199,202
Social Contract, Rousseau's, 122-124
Social Education, 195,213,219
Social Science Education Consortium, 195
Social Studies Development Center, 195
Socialists, 58
South Carolina, 78,79,86
South Carolina Constitution of 1778, 79,80
Southern states, 75
Sparta, 107,131
Speer, Hugh W., 211
St. Francis College v. Al-Khazraji, 212
St. Louis, 62
Stanford University, 63
Stanley, Manfred, 103,204,205
Starr, Isidore, 160,197,210,215
State Bar of California, 62
Stephens, H. Morse, 10
Stevens, John Paul, 69,74,77
Stokes, Anson Phelps, 67,88,201
Stone, Lawrence, 29
Story, Joseph, 67
Study Commission on Global Perspectives in Education, 179,219
Supreme Court, 39,40,57,59-61,64-70,72,74-77,84,86,87,89,91-96,131,140,142,145-147,149, 152,153,158,159,161,163,164, 185,188,202
Sussman, Alan, 215
Sweatt case, 60
Syracuse University, 63,208
Szanton, Peter, 177,218

Tacitus, 119
Teacher Corps, 177
Teachers College, 62
Ten Commandments, 39,65,91
Tennessee, 91
Texas, 44
Thanksgiving, 90
Third Amendment, 157
Thomas, John L., 207
Thompson, Dennis F., 103,204,204
Thorpe, Francis Newton, 200,207
Thucydides, 106,206
Thurmond, Strom, 79,91
Times Mirror, 187
Tinker v. Des Moines, 143,185,211
Title IX of the Education Amendments of 1972, 149,159
Tocqueville, Alexis de, 170
Topeka, Kansas, 75
Torbert, William R., 210
Tories, 119
Tomey-Purta, Judith, 219,220
Tower Commission, 131
Tribe, Laurence H., 72,76, 148,212
Tribonian, 114
Truman, Harry S., 60,76
Tryon, Rolla M., 190,196
Tufts University, 63
Turner, Frederick Jackson, 7
Turner, Mary Jane, 195
Twelve Tables of Civism, 132,136
Tyack, David B., 196

U.S. Commission on Civil Rights, 60, 147
U.S. Commissioner of Education, 56
U.S. Department of Education, 38,72, 91,153,154
U.S. Office of Education, 62
United States v. Paradise, 212
United Steel Workers of America v. Weber, 147,212
University of California, Berkeley, 2
University of California, Los Angeles, 63
Upbeats, 187
Update on Law-Related Education, 209-211,214,215
USA English, 153

Vandenberg, Donald, 220
Vatican, 66
Vermont, 90
Vietnam war, 13,16,143,157,173, 174
Vining, John, 81
Vinson, Fred M., 198
Virginia, 4,74,78-80,120
Virginia Declaration of Rights, 128
Virginia Statute of Religious Liberty, 210
Visigoths, 131
VISTA, 177
Vitz, Paul C., 22,192
Volker, Paul, 187
Voltaire, 119
Voting Rights Act of 1965, 145

Wall Street Journal, 199
Wallace v. Jaffree, 69,70,199
Walzer, Michael, 103,137,139,171, 178,204,209,210,218
Warren, Earl, 64,71,197
Washington, George, 4
Washington Post National Weekly Edition, 202
Watergate, 13,16,27,61,101,156, 157,160,173
Weaver, Samuel P., 197
Webster, Noah, 4,51
Westin, Alan F., 214
Whig, 52, 119,127
White, Byron R., 69,70,149,153, 185,199
White, Dan, 135
White House, 68,76
Wiebe, Robert H., 58,97,150,203, 207,212
Wieman v. Updegraff, 142,210
Wilke, Wendell, 179
Will, George, 88
Williamstown Workshop, 62,197
Wilson, Howard E., 197
Wilson, Woodrow, 7
Winchester, Elhanan, 51
Wisconsin, 58
Wisconsin Journal of Education, 7
Wood, George H., 193
Wood, Gordon S., 88,103,124-126, 205-207
Wood, James E., Jr., 198,201
Wood v. Strickland, 215
Woodward, C. Vann, 38
World War I, 57,58
World War II, 60,142,174,179
Wort v. Vierling, 194,214
Wright, Gordon, 27,193
Wygant v. Jackson (Mich.) Board of Education, 212

Yankelovich, Daniel, *The New Morality* (1974), 155
Yudof, Mark G., 212

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